

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No. : 09/912,636
Applicant : Elliot Schwartz
Filed : 07/24/2001
TC/A.U. : 2142
Examiner : Thong H. Vu
Confirmation No. : 6340

Docket No. : 005168.P002
Customer No. : 40418

Title : Network architecture

COMMUNICATED VIA EFS on 30 MAY 2008

APPELLANT'S REPLY BRIEF Under 37 C.F.R. § 41.41

Dear Sir:

Applicant (Appellant) hereby submits this Reply Brief pursuant to 37 C.F.R. § 41.41 in connection with the above-referenced application and respectfully requests consideration by the Board of Patent Appeals and Interferences for allowance from a fourth and/or fifth rejection decision by the Examiner. The confusion as to a fourth or fifth rejection is based as discussed below on the Examiner failing to comply with Examiner Answer requirements as noted in the MPEP, for which Appellant asks the Board to reject in whole the Examiner's Answer. The Examiner's fourth rejection decision ("Office Action" or "Office") was mailed on March 23, 2006 and rejected all claims (1-27). The Examiner's fifth rejection decision is presumably somewhere within the Examiner's Answer. Applicant submitted a Notice of Appeal that was received on September 29, 2006.

Because of the Examiner failing to comply with the mandatory requirements as listed under MPEP 1207(A) and the uncertainty of what the new grounds of rejection are or which claims are encompassed therein, the Applicant is caught in a Catch-22 and thus is incorporating by reference in its entirety the original Appeal Brief as it is applicable to those claims which are not under new grounds of rejection or addressed directly herein. For completeness and to make sure that claims are not dismissed by a non-response, Applicant is being forced to assume all claims are under new grounds of rejection and thus arguments which may or may not be applicable are included. Applicant requests the Board's patience.

Applicant respectfully requests that because the Examiner did not comply with 1207(A)(6)(d) that the Board reject in entirety the Examiner's Answer.

Applicant also notes for the Board that the Examiner has failed to include rebuttal arguments to the Appeal Brief for claims 11-18 and 20-27. As noted in MPEP 1207.02 "...any rejection not repeated and discussed in the answer may be taken by the Board as having been withdrawn. *Ex parte Emm*, 118 USPQ 180 (Bd. App. 1957). Applicant respectfully submits that claims 11-18 and 20-27 have been withdrawn from rejection by the Examiner and thus are allowable and requests such allowance.

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I. REAL PARTY IN INTEREST

The real party in interest of Appellant is Digi International, Incorporated.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals or interferences.

1) There are no prior or pending interferences.

2) There are no pending appeals before the USPTO.

3) There is no judicial proceeding related to Appellant's instant application or related applications.

III. STATUS OF THE CLAIMS

Claims 1-27 are pending in the application. The status of the claims is unclear because as noted above the Examiner has implicitly withdrawn rejections by not providing a rebuttal in the Answer.

All suitable claims are on appeal as explained above in the Catch-22 discussion. Applicant submits that claims 11-18 and 20-27 have been made allowable by the Examiner.

Various claims have been rejected by the Examiner.

In the fourth Office Action ("Fourth Office"), Claims 1-27 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-27 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bavadekar (U.S. Patent Application No. 2003/0009571 A1).

In the fifth Office Action under the new grounds of rejection somewhere in the Examiner's Answer ("Fifth Answer"), Applicant is not certain which claims are newly rejected. As such Applicant will be *assuming arguendo* all claims are newly rejected.

IV. **STATUS OF AMENDMENTS**

No amendments have been filed after receipt of the fourth or fifth rejection.

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V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Appellant has indicated below representative Figures/Specifications – not all are included so as to keep the claims brief. Appellant has indicated in larger font the three independent claims (1, 10, and 19).

1. A computer network architecture (Figure 2. Specification: page 8, lines 17-18; page 30, line 1.) **comprising:**

a first layer including a transmission control protocol connection;
(Figure 2 at 222 (Transport Layer). Specification: page 8, line 22; page 30, line 2.)

a second layer including a hyper text transfer protocol connection
(Figure 2 at 232 (HTTP). Specification: page 9, lines 3-5; page 30, line 3.) **built upon the first layer;**

a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection; (Figure 2 at 240 (MDH). Specification: page 9, lines 3-5.) **and**

a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer. (Figure 2 at 270 (Multiplexing Layer). Specification: page 9, lines 12-14.)

- 2. The computer network architecture of claim 1, wherein the first tunneling protocol opens the hyper text transfer protocol connection between a server and a client.** (Figure 4, at 410, 420. Specification: page 10, lines 16-21.)
- 3. The computer network architecture of claim 1, further comprising:**
a second tunneling layer including a second tunneling protocol (Figure 2 at 226. Specification: page 9, lines 6-7.) **built upon the first layer to tunnel a message through the transmission control protocol connection.** (Figure 2 at 222. Specification: page 8, line 22.)
- 4. The computer network architecture of claim 3, wherein the second tunneling protocol** (Figure 2 at 226. Specification: page 9, lines 6-7) **is used to open the transmission control protocol connection between the server and the client.** (Figure 4 at 422. Specification: page 10, lines 7-15.)
- 5. The computer network architecture of claim 4, wherein the first tunneling protocol** (Figure 11 at 1140 (MDH protocol).) **opens the hyper text transfer protocol connection if the second tunneling protocol** (Figure 11 at 1110 (MT protocol).) **is not successful in opening the transmission control protocol connection** (Figure 11 at 1120.). (Figure 11. Specification: page 22, line 19 to page 23, line 8.)
- 6. The computer network of claim 1, wherein the messages include binary format messages.** (Specification: page 7, line 18.)

7. The computer network architecture of claim 1, wherein the plurality of messages includes a plurality of operational messages (Specification: page 17, line 11.) **and a plurality of administrative messages.** (Specification: page 18, lines 2, 10-11.)

8. The computer network architecture of claim 7, wherein the operational messages include operational data. (Specification: page 18, line 16.)

9. The computer network architecture of claim 7, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages. (Specification: page 26, lines 1-3.)

10. A method for a computer network architecture comprising:
building a hyper text transfer protocol connection upon (Figure 2 at 232 (HTTP). Specification: page 9, lines 3-5; page 30, line 3.) **a transmission control protocol connection;** (Figure 2 at 222 (Transport Layer). Specification: page 8, line 22; page 30, line 2.)

tunneling a message through the hyper text transfer protocol connection by using a first tunneling protocol layer including a first tunneling protocol; (Figure 2 at 240 (MDH). Specification: page 9, lines 3-5.) **and**

multiplexing a plurality of messages for transmission through the hyper text transfer protocol connection by using a multiplexing layer.

(Figure 2 at 270 (Multiplexing Layer). Specification: page 9, lines 12-14.)

11. The method of claim 10, wherein opening the hyper text transfer protocol connection between a server and a client by using the first tunneling layer. (Figure 5 at 502 (MDH Connection Request). Specification: page 11, lines 2-3.)

12. The method of claim 10, further comprising:

tunneling a message through the transmission control protocol connection (Figure 2 at 222. Specification: page 8, line 22.) **by using a second tunneling protocol layer including a second tunneling protocol built upon** (Figure 2 at 226 (MT). Specification: page 9, lines 6-7.) **the transmission control protocol connection.** (Figure 2 at 222. Specification: page 8, line 22.)

13. The method of claim 12, wherein opening the transmission control protocol connection between a server and a client by using the second tunneling protocol. (Figure 11 at 1110. Specification: page 22, lines 20-21.)

14. The method of claim 13, wherein opening the hyper text transfer protocol connection by using the first tunneling protocol if the transmission control protocol connection is not successfully opened by using the second tunneling protocol. (Figure 11 at 1120, 1140. Specification: page 23, lines 2-4.)

15. The method of claim 10, wherein the messages include binary format messages. (Specification: page 7, line 18.)

16. The method of claim 10, wherein the plurality of messages include a plurality of operational messages (Specification: page 17, line 11.) **and a plurality of administrative messages.** (Specification: page 18, lines 2, 10-11.)

17. The method of claim 16, wherein the operational messages include operational data. (Specification: page 18, line 16.)

18. The method of claim 16, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages. (Specification: page 27, lines 19-21.)

19. A computer readable medium (Figure 10 at 1006, 1008, 1010. Specification: page 23, lines 15-16.) **having instructions which, when executed by a processing system** (Figure 10.) **, cause the system to perform a method comprising:**

building a hyper text transfer protocol connection upon (Figure 2 at 232 (HTTP). Specification: page 9, lines 3-5; page 30, line 3.) **a transmission control protocol connection;** (Figure 2 at 222 (Transport Layer). Specification: page 8, line 22; page 30, line 2.)

tunneling a message through the Hyper Text Transfer Protocol connection by using a first tunneling protocol layer including a first tunneling protocol; (Figure 2 at 240 (MDH). Specification: page 9, lines 3-5.) **and multiplexing a plurality of messages for transmission through the Hyper Text Transfer Protocol connection by using a multiplexing layer.**

(Figure 2 at 270 (Multiplexing Layer). Specification: page 9, lines 12-14.)

20. The medium of claim 19, wherein opening the Hyper Text Transfer Protocol connection between a server and a client by using the first tunneling layer. (Figure 5 at 502 (MDH Connection Request). Specification: page 11, lines 2-3.)

21. The medium of claim 19, further comprising:

tunneling a message through the transmission control protocol connection (Figure 2 at 222. Specification: page 8, line 22.) **by using a second tunneling protocol layer including a second tunneling protocol built upon** (Figure 2 at 226 (MT).

Specification: page 9, lines 6-7.) the Transmission Control Protocol Connection. (Figure 2 at 222. Specification: page 8, line 22.)

22. The medium of claim 21, wherein opening the Transmission Control Protocol connection between a server and a client by using the second tunneling protocol. (Figure 11 at 1110. Specification: page 22, lines 20-21.)

23. The medium of claim 22, wherein opening the Hyper Text Transfer Protocol connection by using the first tunneling protocol (Figure 11 at 1120 (NO), 1140.) if the Transmission Control Protocol connection is not successfully opened by using the second tunneling protocol. (Figure 11 at 1120 (NO), 1140. Specification: page 23, lines 2-4.)

24. The medium of claim 19, wherein the messages include binary format messages. (Specification: page 7, line 18.)

25. The medium of claim 19, wherein the plurality of messages include a plurality of operational messages (Specification: page 17, line 11.) and a plurality of administrative messages. (Specification: page 18, lines 2, 10-11.)

26. The medium of claim 25, wherein the operational messages include operational data. (Specification: page 18, line 16.)

27. The medium of claim 25, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages. (Specification: page 29, lines 15-17.)

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues presented on appeal are whether Applicant's claims 1-27 as may be applicable in view of the discussion above for the reasons stated in the Status of the Claims are unpatentable.

First

Some of Claims 1-27 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Second

Some of Claims 1-27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bavadekar (U.S. Patent Application No. 2003/0009571 A1).

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VII. ARGUMENT

PREFACE

Board of Appeals,

It is this type of examination on the instant application that is driving us conscientious patent attorneys up the wall.

Before the Appeal we have had 3 prior office actions where the Applicant successfully overcame the Examiner's arguments without amending any claims only to be met with a new rejection based on "applicant's arguments moot in light of new art."

Then on the 4th rejection, the Examiner raised for the first time a 101 rejection. What kind of examination is being done by this Examiner? A 101 should have been raised previously. A response by the examiner of "only now do I understand what applicant is trying to claim" is a lame excuse as Applicant has not amended anything!

Now in response to our Appeal the Examiner in his Answer is raising "new grounds of rejections". I wonder if there is any finality or if the Examiner will next yank the application back into prosecution so as to avoid the Board seeing this appeal?

Applicant suspects that the Examiner is not happy that the techniques disclosed and claimed for in the patent application, while new, non-obvious, and novel at the time of the

invention, may now be known and the Examiner is suffering a case of Monday morning quarterbacking.

Applicant respectfully requests that this Board please read the application and correspondence and move this case forward.

Extremely frustrated,

Alan Heimlich

Historical prosecution history

For the benefit of the board, the claims and the historical prosecution history of the instant application are illustrated on the following page. Claim structure is illustrated by indentation of the claims. Leftmost claims are independent. (I.e. claim 2 is dependent on claim 1, as is claim 3. Claim 5 is dependent on 4, which is dependent on 3, which is dependent on 1.)

Each claim is addressed below, however, Claim 1 is considered particularly relevant because the dependent claims and other independent claims and dependent claims are variations on claim 1.

Digi P002 Appeal historical claim tree.doc

CLAIM #	5 th Rejection 03-31-2008	4 th Rejection 03-23-2006	3 rd OA Rejection 08-12-2005	2 nd OA Rejection 01-31-2005	1 st OA Rejection 10-06-2004
1	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
2	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
3	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
4	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
5	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar-Pujare?	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
6	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar-Pujare?	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
7	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar-Pujare?	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
8	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar-Pujare?	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
9	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar-Pujare?	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
10	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
11	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
12	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
13	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
14	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
15	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
16	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
17	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
18	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine

19	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
20	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
21	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
22	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
23	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
24	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
25	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
26	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine
27	101 nonstatutory 102(e) Bavadekar	101 nonstatutory 102(e) Bavadekar	103(a) Noy ivo Jacob fivo Pujare	102(e)/103(a) Urien	103(a) Jacob ivo Balabine

INTRODUCTION

The present invention relates to a lightweight end-to-end network architecture in which the transport layer is a Transmission Control Protocol (TCP) layer is disclosed. The network architecture also includes a Hyper Text Transport Protocol (HTTP) layer, a Messages over TCP (MT) protocol layer, a Message over Device-initiated HTTP (MDH) protocol layer, a multiplexing layer, and a facility layer. The MDH and MT layers are used in the alternative. The MT layer has a low overhead requirement. The MDH layer provides an enhanced firewall traversal capability.

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Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 1 Rejection under 35 U.S.C. § 101

Applicant's claim 1 recites:

1. A computer network architecture comprising:

a first layer including a transmission control protocol connection;

a second layer including a hyper text transfer protocol connection built upon the first layer;

a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection; and

a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 1

Applicant for the reasons detailed above submits that Applicant's claim 1 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for independent claim 1 and allowance of claim 1.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 1 Rejection under 35 U.S.C. § 101

Applicant's claim 1 recites:

1. A computer network architecture comprising:

a first layer including a transmission control protocol connection;

a second layer including a hyper text transfer protocol connection built upon the first layer;

a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection; and

a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has

decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be

implemented either in hardware or software.” (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that “...second layer, multiplexing layer and tunneling layer... were abstract idea.” Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant’s “layers” as some sort of abstraction for which the Examiner provides no basis or case law. Applicant’s specification is quite clear in stating that “**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines.” (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user,

but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 1

Applicant for the reasons detailed above submits that Applicant's claim 1 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for independent claim 1 and allowance of claim 1.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 2 Rejection under 35 U.S.C. § 101

Applicant's claim 2 recites:

2. The computer network architecture of claim 1, wherein the first tunneling protocol opens the hyper text transfer protocol connection between a server and a client.

(Emphases added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 2

Applicant for the reasons detailed above submits that Applicant's claim 2 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 2 and allowance of claim 2.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 2 Rejection under 35 U.S.C. § 101

Applicant's claim 2 recites:

2. The computer network architecture of claim 1, wherein the first tunneling protocol opens the hyper text transfer protocol connection between a server and a client.

(Emphases added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a

useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 2

Applicant for the reasons detailed above submits that Applicant's claim 2 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 2 and allowance of claim 2.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 3 Rejection under 35 U.S.C. § 101

Applicant's claim 3 recites:

3. The computer network architecture of claim 1, further comprising:
a second tunneling layer including a second tunneling protocol built upon the first layer to tunnel a message through the transmission control protocol connection.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 3

Applicant for the reasons detailed above submits that Applicant's claim 3 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 3 and allowance of claim 3.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 3 Rejection under 35 U.S.C. § 101

Applicant's claim 3 recites:

3. The computer network architecture of claim 1, further comprising:
a second tunneling layer including a second tunneling protocol built upon the first layer to tunnel a message through the transmission control protocol connection.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

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Sixthly,

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Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

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Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 3

Applicant for the reasons detailed above submits that Applicant's claim 3 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 3 and allowance of claim 3.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

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3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 4 Rejection under 35 U.S.C. § 101

Applicant's claim 4 recites:

4. The computer network architecture of claim 3, wherein the second tunneling protocol is used to open the transmission control protocol connection between the server and the client.

(Emphases added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 4

Applicant for the reasons detailed above submits that Applicant's claim 4 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 4 and allowance of claim 4.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 4 Rejection under 35 U.S.C. § 101

Applicant's claim 4 recites:

4. The computer network architecture of claim 3, wherein the second tunneling protocol is used to open the transmission control protocol connection between the server and the client.

(Emphases added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly.

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly.

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly.

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature*

Financial Group Inc., 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998).

For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or

thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 4

Applicant for the reasons detailed above submits that Applicant's claim 4 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 4 and allowance of claim 4.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 5 Rejection under 35 U.S.C. § 101

Applicant's claim 5 recites:

5. The computer network architecture of claim 4, wherein the first tunneling protocol opens the hyper text transfer protocol connection if the second tunneling protocol is not successful in opening the transmission control protocol connection.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 5

Applicant for the reasons detailed above submits that Applicant's claim 5 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 5 and allowance of claim 5.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 5 Rejection under 35 U.S.C. § 101

Applicant's claim 5 recites:

5. The computer network architecture of claim 4, wherein the first tunneling protocol opens the hyper text transfer protocol connection if the second tunneling protocol is not successful in opening the transmission control protocol connection.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

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Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a

useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 5

Applicant for the reasons detailed above submits that Applicant's claim 5 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 5 and allowance of claim 5.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 6 Rejection under 35 U.S.C. § 101

Applicant's claim 6 recites:

6. The computer network of claim 1, wherein the messages include binary format messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 6

Applicant for the reasons detailed above submits that Applicant's claim 6 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 6 and allowance of claim 6.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 6 Rejection under 35 U.S.C. § 101

Applicant's claim 6 recites:

6. The computer network of claim 1, wherein the messages include binary format messages.

(Emphasis added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

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Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

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Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

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Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

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Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 6

Applicant for the reasons detailed above submits that Applicant's claim 6 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 6 and allowance of claim 6.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 7 Rejection under 35 U.S.C. § 101

Applicant's claim 7 recites:

7. The computer network architecture of claim 1, wherein the plurality of messages includes a plurality of operational messages and a plurality of administrative messages.
(Emphasis added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 7

Applicant for the reasons detailed above submits that Applicant's claim 7 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 7 and allowance of claim 7.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 7 Rejection under 35 U.S.C. § 101

Applicant's claim 7 recites:

7. The computer network architecture of claim 1, wherein the plurality of messages includes a plurality of operational messages and a plurality of administrative messages. (Emphasis added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 7

Applicant for the reasons detailed above submits that Applicant's claim 7 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 7 and allowance of claim 7.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 8 Rejection under 35 U.S.C. § 101

Applicant's claim 8 recites:

8. The computer network architecture of claim 7, wherein the operational messages include operational data.

(Emphasis added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 8

Applicant for the reasons detailed above submits that Applicant's claim 8 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 8 and allowance of claim 8.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 8 Rejection under 35 U.S.C. § 101

Applicant's claim 8 recites:

8. The computer network architecture of claim 7, wherein the operational messages include operational data.

(Emphasis added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that “a first layer ... were abstract idea.” Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant’s “first layer” as some sort of abstraction in the Examiner’s mind. Applicant’s specification is quite clear in stating that “**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines.” (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that “...second layer, multiplexing layer and tunneling layer ... were abstract idea.” Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant’s “layers” as some sort of abstraction without a single basis in fact. Applicant’s specification is quite clear in stating that “The layers can be implemented either in hardware or software.” (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 8

Applicant for the reasons detailed above submits that Applicant's claim 8 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 8 and allowance of claim 8.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 9 Rejection under 35 U.S.C. § 101

Applicant's claim 9 recites:

9. The computer network architecture of claim 7, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

(Emphasis added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 9

Applicant for the reasons detailed above submits that Applicant's claim 9 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 9 and allowance of claim 9.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 9 Rejection under 35 U.S.C. § 101

Applicant's claim 9 recites:

9. The computer network architecture of claim 7, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 1 recites among other things "A computer network architecture" as such the architecture has a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that “a first layer ... were abstract idea.” Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant’s “first layer” as some sort of abstraction in the Examiner’s mind. Applicant’s specification is quite clear in stating that “**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines.” (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that “...second layer, multiplexing layer and tunneling layer ... were abstract idea.” Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant’s “layers” as some sort of abstraction without a single basis in fact. Applicant’s specification is quite clear in stating that “The layers can be implemented either in hardware or software.” (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 9

Applicant for the reasons detailed above submits that Applicant's claim 9 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 8 and allowance of claim 9.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 10 Rejection under 35 U.S.C. § 101

Applicant's claim 10 recites:

10. A method for a computer network architecture comprising:

building a hyper text transfer protocol connection upon a transmission control protocol connection;

tunneling a message through the hyper text transfer protocol connection by using a first tunneling protocol layer including a first tunneling protocol; and

multiplexing a plurality of messages for transmission through the hyper text transfer protocol connection by using a multiplexing layer.

(Emphasis added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 10

Applicant for the reasons detailed above submits that Applicant's claim 10 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for independent claim 10 and allowance of claim 10.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 10 Rejection under 35 U.S.C. § 101

Applicant's claim 10 recites:

10. A method for a computer network architecture comprising:

building a hyper text transfer protocol connection upon a transmission control protocol connection;

tunneling a message through the hyper text transfer protocol connection by using a first tunneling protocol layer including a first tunneling protocol; and

multiplexing a plurality of messages for transmission through the hyper text transfer protocol connection by using a multiplexing layer.

(Emphasis added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has

decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be

implemented either in hardware or software.” (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that “...second layer, multiplexing layer and tunneling layer... were abstract idea.” Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant’s “layers” as some sort of abstraction for which the Examiner provides no basis or case law. Applicant’s specification is quite clear in stating that “**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines.” (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user,

but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 10

Applicant for the reasons detailed above submits that Applicant's claim 10 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 10 and allowance of claim 10.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 11 Rejection under 35 U.S.C. § 101

Applicant's claim 11 recites:

11. The method of claim 10, wherein opening the hyper text transfer protocol connection between a server and a client by using the first tunneling layer.

(Emphasis added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 11

Applicant for the reasons detailed above submits that Applicant's claim 11 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 11 and allowance of claim 11.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 11 Rejection under 35 U.S.C. § 101

Applicant's claim 11 recites:

11. The method of claim 10, wherein opening the hyper text transfer protocol connection between a server and a client by using the first tunneling layer.

(Emphasis added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a

useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 11

Applicant for the reasons detailed above submits that Applicant's claim 11 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 11 and allowance of claim 11.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 12 Rejection under 35 U.S.C. § 101

Applicant's claim 12 recites:

12. The method of claim 10, further comprising:

tunneling a message through the transmission control protocol connection by using a second tunneling protocol layer including a second tunneling protocol built upon the transmission control protocol connection.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 12

Applicant for the reasons detailed above submits that Applicant's claim 12 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 12 and allowance of claim 12.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 12 Rejection under 35 U.S.C. § 101

Applicant's claim 12 recites:

12. The method of claim 10, further comprising:

tunneling a message through the transmission control protocol connection by using a second tunneling protocol layer including a second tunneling protocol built upon the transmission control protocol connection.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a

tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 12

Applicant for the reasons detailed above submits that Applicant's claim 12 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 12 and allowance of claim 12.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 13 Rejection under 35 U.S.C. § 101

Applicant's claim 13 recites:

13. The method of claim 12, wherein opening the transmission control protocol connection between a server and a client by using the second tunneling protocol.

(Emphases added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 13

Applicant for the reasons detailed above submits that Applicant's claim 13 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 13 and allowance of claim 13.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 13 Rejection under 35 U.S.C. § 101

Applicant's claim 13 recites:

13. The method of claim 12, wherein opening the transmission control protocol connection between a server and a client by using the second tunneling protocol.

(Emphases added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a

useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 13

Applicant for the reasons detailed above submits that Applicant's claim 13 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 13 and allowance of claim 13.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 14 Rejection under 35 U.S.C. § 101

Applicant's claim 14 recites:

14. The method of claim 13, wherein opening the hyper text transfer protocol connection by using the first tunneling protocol if the transmission control protocol connection is not successfully opened by using the second tunneling protocol.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 14

Applicant for the reasons detailed above submits that Applicant's claim 14 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 14 and allowance of claim 14.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 14 Rejection under 35 U.S.C. § 101

Applicant's claim 14 recites:

14. The method of claim 13, wherein opening the hyper text transfer protocol connection by using the first tunneling protocol if the transmission control protocol connection is not successfully opened by using the second tunneling protocol.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a

useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 14

Applicant for the reasons detailed above submits that Applicant's claim 14 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 14 and allowance of claim 14.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 15 Rejection under 35 U.S.C. § 101

Applicant's claim 15 recites:

15. The method of claim 10, wherein the messages include binary format messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 15

Applicant for the reasons detailed above submits that Applicant's claim 15 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 15 and allowance of claim 15.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 15 Rejection under 35 U.S.C. § 101

Applicant's claim 15 recites:

15. The method of claim 10, wherein the messages include binary format messages.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 15

Applicant for the reasons detailed above submits that Applicant's claim 15 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 15 and allowance of claim 15.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 16 Rejection under 35 U.S.C. § 101

Applicant's claim 16 recites:

16. The method of claim 10, wherein the plurality of messages include a plurality of operational messages and a plurality of administrative messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 16

Applicant for the reasons detailed above submits that Applicant's claim 16 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 16 and allowance of claim 16.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 16 Rejection under 35 U.S.C. § 101

Applicant's claim 16 recites:

16. The method of claim 10, wherein the plurality of messages include a plurality of operational messages and a plurality of administrative messages.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

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Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

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Ninthly,

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Tenthly,

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Eleventhly,

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Fifth Answer - In Summary – Claim 16

Applicant for the reasons detailed above submits that Applicant's claim 16 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 16 and allowance of claim 16.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 17 Rejection under 35 U.S.C. § 101

Applicant's claim 17 recites:

17. The method of claim 16, wherein the operational messages include operational data.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

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Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

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Fourth Office - In Summary – Claim 17

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Fifth Answer - Claim 17 Rejection under 35 U.S.C. § 101

Applicant's claim 17 recites:

17. The method of claim 16, wherein the operational messages include operational data.

Firstly,

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Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

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Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

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Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

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Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 17

Applicant for the reasons detailed above submits that Applicant's claim 17 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 17 and allowance of claim 17.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 18 Rejection under 35 U.S.C. § 101

Applicant's claim 18 recites:

18. The method of claim 16, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 18

Applicant for the reasons detailed above submits that Applicant's claim 18 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 18 and allowance of claim 18.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 18 Rejection under 35 U.S.C. § 101

Applicant's claim 18 recites:

18. The method of claim 16, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 10 recites among other things "a computer network architecture" as such the architecture uses a tangible element a computer. Even one not of ordinary skill in the art knows that a computer network architecture uses computers. Computers are not an abstract idea.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer. A computer is a tangible thing and not an abstract idea.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and thus a computer network architecture as Applicant has claimed is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the first layer is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's "first layer" as some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that these additional layers are not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's "layers" as some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither hardware nor software are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that these layers are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's "layers" as some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 18

Applicant for the reasons detailed above submits that Applicant's claim 18 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 18 and allowance of claim 18.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 19 Rejection under 35 U.S.C. § 101

Applicant's claim 19 recites:

19. A computer readable medium having instructions which, when executed by a processing system, cause the system to perform a method comprising:

building a hyper text transfer protocol connection upon a transmission control protocol connection;

tunneling a message through the Hyper Text Transfer Protocol connection by using a first tunneling protocol layer including a first tunneling protocol; and

multiplexing a plurality of messages for transmission through the Hyper Text Transfer Protocol connection by using a multiplexing layer.

(Emphases added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 19

Applicant for the reasons detailed above submits that Applicant's claim 19 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 19 and allowance of claim 19.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 19 Rejection under 35 U.S.C. § 101

Applicant's claim 19 recites:

19. A computer readable medium having instructions which, when executed by a processing system, cause the system to perform a method comprising:

building a hyper text transfer protocol connection upon a transmission control protocol connection;

tunneling a message through the Hyper Text Transfer Protocol connection by using a first tunneling protocol layer including a first tunneling protocol; and

multiplexing a plurality of messages for transmission through the Hyper Text Transfer Protocol connection by using a multiplexing layer.

(Emphases added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" are some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 19

Applicant for the reasons detailed above submits that Applicant's claim 19 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 19 and allowance of claim 19.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 20 Rejection under 35 U.S.C. § 101

Applicant's claim 20 recites:

20. The medium of claim 19, wherein opening the Hyper Text Transfer Protocol connection between a server and a client by using the first tunneling layer.

(Emphases added.)

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 20

Applicant for the reasons detailed above submits that Applicant's claim 20 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 20 and allowance of claim 20.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 20 Rejection under 35 U.S.C. § 101

Applicant's claim 20 recites:

20. The medium of claim 19, wherein opening the Hyper Text Transfer Protocol connection between a server and a client by using the first tunneling layer.
(Emphases added.)

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" are some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces

a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or

thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 20

Applicant for the reasons detailed above submits that Applicant's claim 20 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 20 and allowance of claim 20.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 21 Rejection under 35 U.S.C. § 101

Applicant's claim 21 recites:

21. The medium of claim 19, further comprising:

tunneling a message through the transmission control protocol connection by using a second tunneling protocol layer including a second tunneling protocol built upon the Transmission Control Protocol Connection.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 21

Applicant for the reasons detailed above submits that Applicant's claim 21 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 21 and allowance of claim 21.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 20 Rejection under 35 U.S.C. § 101

Applicant's claim 21 recites:

21. The medium of claim 19, further comprising:

tunneling a message through the transmission control protocol connection by using a second tunneling protocol layer including a second tunneling protocol built upon the Transmission Control Protocol Connection.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer

readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's

specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

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Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" are some sort of abstraction without a

single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

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The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "Figure 1 illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly.

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

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Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

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Fifth Answer - In Summary – Claim 21

Applicant for the reasons detailed above submits that Applicant's claim 21 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 21 and allowance of claim 21.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 22 Rejection under 35 U.S.C. § 101

Applicant's claim 22 recites:

22. The medium of claim 21, wherein opening the Transmission Control Protocol connection between a server and a client by using the second tunneling protocol.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

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Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

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Fourth Office - In Summary – Claim 22

Applicant for the reasons detailed above submits that Applicant's claim 22 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 22 and allowance of claim 22.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 22 Rejection under 35 U.S.C. § 101

Applicant's claim 22 recites:

22. The medium of claim 21, wherein opening the Transmission Control Protocol connection between a server and a client by using the second tunneling protocol.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

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Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

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Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

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Fifth Answer - In Summary – Claim 22

Applicant for the reasons detailed above submits that Applicant's claim 22 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 22 and allowance of claim 22.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 23 Rejection under 35 U.S.C. § 101

Applicant's claim 23 recites:

23. The medium of claim 22, wherein opening the Hyper Text Transfer Protocol connection by using the first tunneling protocol if the Transmission Control Protocol connection is not successfully opened by using the second tunneling protocol.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

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Eighthly,

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The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 23

Applicant for the reasons detailed above submits that Applicant's claim 23 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 23 and allowance of claim 23.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 23 Rejection under 35 U.S.C. § 101

Applicant's claim 23 recites:

23. The medium of claim 22, wherein opening the Hyper Text Transfer Protocol connection by using the first tunneling protocol if the Transmission Control Protocol connection is not successfully opened by using the second tunneling protocol.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

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Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" are some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant's claim clearly notes a server and a client. As such the claim is directed to patentable statutory subject matter. A physical server and a physical client are not an abstract idea.

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces

a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Tenthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Eleventhly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or

thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Twelfthly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 23

Applicant for the reasons detailed above submits that Applicant's claim 23 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 23 and allowance of claim 23.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 24 Rejection under 35 U.S.C. § 101

Applicant's claim 24 recites:

24. The medium of claim 19, wherein the messages include binary format messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 24

Applicant for the reasons detailed above submits that Applicant's claim 24 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 24 and allowance of claim 24.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 24 Rejection under 35 U.S.C. § 101

Applicant's claim 24 recites:

24. The medium of claim 19, wherein the messages include binary format messages.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly,

The Examiner has conclusory stated that “a first layer ... were abstract idea.” Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a “first layer” and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that “**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines.” (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

Sixthly,

The Examiner has conclusory stated that “...second layer, multiplexing layer and tunneling layer ... were abstract idea.” Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as “layers” and some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that “The layers can be implemented either in hardware or software.” (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 24

Applicant for the reasons detailed above submits that Applicant's claim 19 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 24 and allowance of claim 24.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 25 Rejection under 35 U.S.C. § 101

Applicant's claim 25 recites:

25. The medium of claim 19, wherein the plurality of messages include a plurality of operational messages and a plurality of administrative messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 25

Applicant for the reasons detailed above submits that Applicant's claim 25 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 25 and allowance of claim 25.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 25 Rejection under 35 U.S.C. § 101

Applicant's claim 25 recites:

25. The medium of claim 19, wherein the plurality of messages include a plurality of operational messages and a plurality of administrative messages.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

Sixthly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" are some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 25

Applicant for the reasons detailed above submits that Applicant's claim 25 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 25 and allowance of claim 25.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 26 Rejection under 35 U.S.C. § 101

Applicant's claim 26 recites:

26. The medium of claim 25, wherein the operational messages include operational data.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 26

Applicant for the reasons detailed above submits that Applicant's claim 26 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 26 and allowance of claim 26.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 26 Rejection under 35 U.S.C. § 101

Applicant's claim 26 recites:

26. The medium of claim 25, wherein the operational messages include operational data.

Firstly,

The Office states: "a first layer, second layer, multiplexing layer and tunneling layer were abstract idea."

Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

Secondly,

While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

Thirdly,

Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

Fourthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly.

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

Sixthly.

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" and some sort of abstraction without a single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly,

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

Eighthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Here Applicant has clearly defined “layers” as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an “abstract idea”, even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) “transforms” an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 26

Applicant for the reasons detailed above submits that Applicant's claim 26 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 26 and allowance of claim 26.

Fourth Office - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at 3 states:

3. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It was well-known in the network art that the first layer is the physical layer and the second layer is link layer. It was unclear if the applicant claimed the first layer is TCP and the second layer is HTTP then the network architecture, as claimed, without using the physical layer and link layer is impossible to communication. Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation.

Fourth Office - Claim 27 Rejection under 35 U.S.C. § 101

Applicant's claim 27 recites:

27. The medium of claim 25, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

Firstly,

The Office states: "It was well-known in the network art that the first layer is the physical layer and the second layer is link layer."

Applicant submits that the Examiner is referring to an artificial model created for easy discussion rather than what Applicant has claimed.

The Examiner's reasoning is flawed as it arbitrarily makes distinctions and assumptions that are not relevant and are not what Applicant disclosed.

For example, the statement "...the network architecture, as claimed, without using the physical layer and link layer is impossible to communication." is irrelevant to what the Applicant has claimed. The Examiner could also argue "that without the physical connector to a communications channel, communication is impossible." While both statements may be true they are not germane to what Applicant has claimed.

Secondly,

One of skill in the network arts is familiar with both the ISO/OSI Network Model and the TCP/IP Network Model. As one of skill in the art is well aware, the TCP/IP Network Model has a link layer 1 on top of a network layer 2. The TCP/IP Network Model DOES NOT have a "physical layer". The Examiner's arguments with respect to a "physical layer" are immaterial to what the Applicant has claimed. Applicant is not claiming either of these models. Applicant submits that the Examiner is trying to "force fit" what Applicant has claimed into an existing network model to support a basis for rejection rather than understanding what the Applicant has claimed.

Thirdly,

Applicant submits that the Examiner is equating Applicant's "a first layer" to an OSI Layer 1. Applicant has never stated such in the application.

Fourthly,

Assuming arguendo that Applicant's "a first layer" is the same as OSI Layer 1, the argument makes no sense since Applicant clearly states "a first layer *including* a transmission control protocol ...". As the Examiner should be aware OSI Layer 1 is only a physical layer and does not include a TCP.

Fifthly,

Applicant submits that the Examiner is equating Applicant's "a second layer" to an OSI Layer 2. Applicant has never stated such in the application.

Sixthly,

Assuming arguendo that Applicant's "a second layer" is the same as OSI Layer 2, the argument makes no sense since Applicant clearly states "a second layer *including* a hyper text transfer protocol ...". As the Examiner should be aware OSI Layer 2 is only a data link layer and does not include a HTTP.

Seventhly,

The Office then states: "Examiner can not determine what applicant intended scope and Examiner can not determine without undue experimentation."

Applicant submits that the claims clearly define the invention and that the specification clearly describes and shows via the many figures the scope of the invention.

Eighthly,

Regarding the Office's contention "Examiner can not determine without undue experimentation." Applicant most strongly disagrees.

The specification and figures clearly show and describe embodiments of the invention as well as examples of usage. One skilled in the network arts can easily ascertain from, for example, Figure 2, the various layers and from the specification the interactions as well as the other Figures, such as Figure 5, the communications exchanges. There is no "undue experimentation" required to ascertain what the invention is or what Applicant has claimed.

Fourth Office - In Summary – Claim 27

Applicant for the reasons detailed above submits that Applicant's claim 27 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 27 and allowance of claim 27.

Fifth Answer - Claims 1- 27 Rejection under 35 U.S.C. § 101

The Office at (9) Page 3 states:

1. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. (i.e.: a first layer, second layer, multiplexing layer and tunneling layer were abstract idea).

Fifth Answer - Claim 27 Rejection under 35 U.S.C. § 101

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Applicant submits that the Examiner is selectively clipping words and stating without support a conclusion. This would be no different than the examiner clipping the words "first" and "second" and then stating these are an abstract idea. Applicant's claim 19 recites among other things "computer readable medium" and "a processing system" as such the apparatus has tangible entities. Even an ordinary lay person knows that a computer

readable medium (e.g. floppy, flash drive, etc.) is a tangible medium. A computer readable medium and a processing system are not abstract ideas.

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While limitations in the specification may not be read into the claims, the specification may be used to explain terms. Applicant's Figure 10 clearly shows a computer (an example of a processing system). Applicant's Figure 10 clearly shows a computer readable medium (e.g. RAM, ROM, Storage, etc.). A computer readable medium and a processing system are not abstract ideas.

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Applicant's Figure 7 clearly shows a network architecture 200 on a server 410, and a network architecture 200 on a client 420. Servers and clients are well known to have physical embodiments utilizing a computer and are examples of processing systems which is a physical tangible entity and not an abstract idea.

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The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that a computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's computer readable medium as a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's

specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Fifthly,

The Examiner has conclusory stated that "a first layer ... were abstract idea." Applicant submits that the computer readable medium is not an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify Applicant's a computer readable medium is a "first layer" and some sort of abstraction in the Examiner's mind. Applicant's specification is quite clear in stating that "**Figure 1** illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Neither a computer readable medium nor a processing system are an abstract idea.

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The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer ... were abstract idea." Applicant submits that neither a computer readable medium nor a processing system are an abstract idea and the Examiner has failed to provide any evidence of such. Rather Applicant suspects that the Examiner has decided without explicitly stating so to classify all of Applicant's computer readable medium and processing system as "layers" are some sort of abstraction without a

single basis in fact. Applicant's specification is quite clear in stating that "The layers can be implemented either in hardware or software." (Page 1, lines 6-7.) Neither a computer readable medium nor a processing system are an abstract idea.

Seventhly.

The Examiner has conclusory stated that "...second layer, multiplexing layer and tunneling layer... were abstract idea." Applicant submits that a computer readable medium and a processing system are not an abstract idea and the Examiner has failed to provide any evidence of such. The Examiner without any basis has decided to classify Applicant's computer readable medium and processing system as "layers" and some sort of abstraction for which the Examiner provides no basis or case law. Applicant's specification is quite clear in stating that "Figure 1 illustrates a network architecture ... each layer passes (or tunnels) data and control information to the layer immediately below it ... The virtual communication is shown by dotted lines and the physical communication by solid lines." (Page 1 line 16 to Page 2 line 3.) (Emphasis added.) Physical communication by a layer is not an abstract idea.

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Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106 regarding patent subject matter eligibility. Applicant submits that the claimed invention as a whole is useful and accomplishes a practical application. That is, it produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). For example Applicant details in the specification not only communications that produce a

useful, concrete and tangible result, for example on a display (Figure 10 at 1020) for a user, but also other useful, concrete and tangible results, such as, but not limited to, physical pin manipulation (see Figure 9).

Ninthly,

Applicant submits that the Examiner has failed to follow the guidelines as detailed in MPEP 2106. Per the MPEP: USPTO personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation and USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Additionally where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Here Applicant has clearly defined "layers" as having a tangible physical entity and not as an abstract idea.

Tenthly,

Assuming arguendo, that Applicant's claim initially appears to be an "abstract idea", even then a claimed invention is directed to a practical application of a 35 U.S.C. 101 judicial exception when it: (A) "transforms" an article or physical object to a different state or thing; **or** (B) otherwise produces a useful, concrete and tangible result, based on a physical transformation or that produces a useful, concrete, and tangible result.

Here Applicant has clearly shown that the invention produces a useful, concrete and tangible result.

Eleventhly,

The burden is on the USPTO to set forth a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If the record as a whole suggests that it is more likely than not that the claimed invention would be considered a practical application of an abstract idea, natural phenomenon, or law of nature, then USPTO personnel should not reject the claim. If USPTO personnel determine that it is more likely than not that the claimed subject matter falls outside all of the statutory categories, they must provide an explanation.

Here the Examiner has failed to state why Applicant's claim is an abstract idea with no practical application. Applicant submits that the record as a whole suggests that at a minimum the claimed invention would be considered a practical application of an abstract idea and therefore overcomes the 35 USC 101 rejection.

Fifth Answer - In Summary – Claim 27

Applicant for the reasons detailed above submits that Applicant's claim 27 is directed to statutory matter. Applicant respectfully requests removal of the 35 U.S.C. § 101 rejection for claim 27 and allowance of claim 27.

////

Fourth Office - Claim 1 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 4 states:

4. As per claim 1, Bavadekar discloses a computer network architecture comprising:

a first layer including a transmission control protocol connection [Bavadekar, TCP connection, 0050];

a second layer including a hyper text transfer protocol connection built upon the first layer [Bavadelar, HTTP tunnel, 0050];

a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection; and a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer [Bavadelar, HTTP tunnel may multiplex packets from the clients onto TCP connection, 0050].

The cited reference states:

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

Applicant's claim 1 recites:

1. A computer network architecture comprising:
 - a first layer including a transmission control protocol connection;
 - a second layer including a hyper text transfer protocol connection built upon the first layer;
 - a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection; and
 - a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer.

To better assist in the discussion that follows, Applicant has added the **bolded** bracketed notations to the first portion of Bavadekar paragraph [0050] to better illustrate the entities as may be seen in Bavadekar Figure 3B and **bolded** bracketed notations to Applicant's claim 1.

[0050] In one embodiment, [**see Figure 3B**] one Web server [**208**] and one tunnel servlet [**214**] may be used by two or more clients [**200A, 200B**] to communicate to a broker [**202**] via tunnel connections. In this embodiment, the HTTP tunnel servlet [**214**] may multiplex transport protocol packets from the two or more clients [**200A, 200B**] onto the TCP connection [**216**]. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel

connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

(Emphases added.)

Applicant's claim 1 recites:

1. A computer network architecture **[see Figure 2]** comprising:
 - a first layer including a transmission control protocol connection **[222]**;
 - a second layer including a hyper text transfer protocol connection **[232]** built upon the first layer **[222]**;
 - a first tunneling layer including a first tunneling protocol **[240]** built upon the second layer **[232]** to tunnel a message through the hyper text transfer protocol connection; and
 - a multiplexing layer **[270]** to multiplex a plurality of messages for transmission through the first tunneling layer **[240]**.

(Emphasis added.)

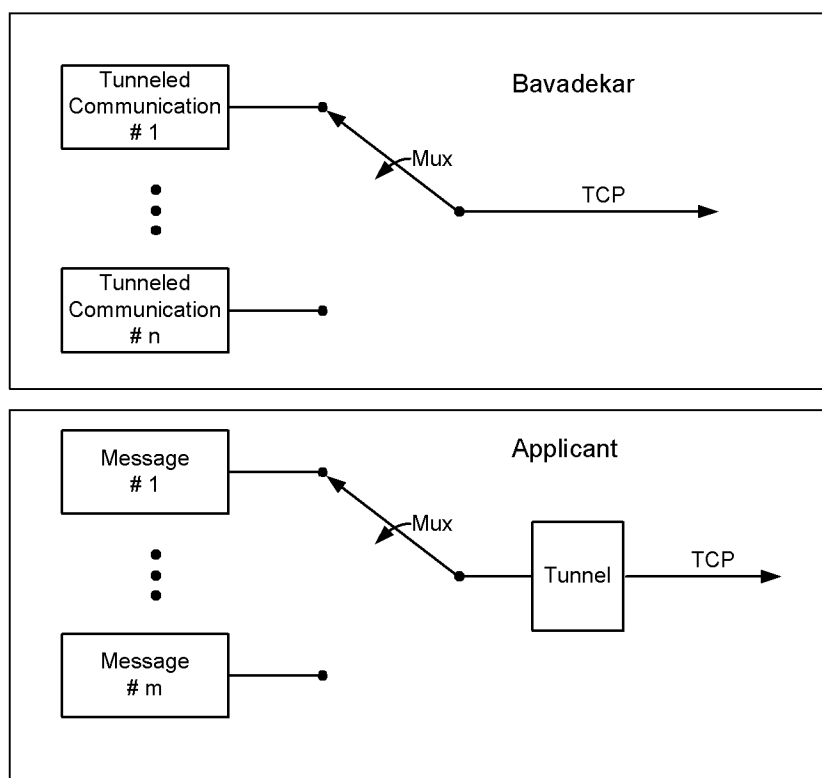
Applicant submits that Bavadekar additionally discloses at [0074]:

[0074] The HTTP tunnel client driver 220 may then send the messages as HTTP POST request payloads. The HTTP tunnel client driver 220 may also use separate HTTP requests to periodically pull any data sent by the other end of the connection. The HTTP requests may be sent through HTTP proxy 206, Internet 204, and firewall 210 to Web server 208. On Web server 208, the HTTP tunnel servlet 214 may act as a transceiver and may *multiplex the HTTP requests* from multiple clients *onto a single TCP connection* 216 with the broker 202. The HTTP tunnel broker driver 240 may receive the HTTP requests from the Web server 210 over TCP connection 216.

(Emphases added.)

Thus Bavadekar discloses multiplexing the transport protocol packets [0050] or the HTTP requests [0074]. In either case the packets or requests are already arriving at the HTTP tunnel servlet 214 of Bavadekar as tunnel communications. Thus Bavadekar is multiplexing tunnel communications onto TCP 216. In contrast Applicant is multiplexing a plurality of messages into the tunneling which may then be transported via TCP.

The illustration below indicates the difference.



← **Multiplexing already
tunneled communications
onto TCP (Bavadekar) is
not the same as
multiplexing a plurality of
messages into the
tunneling which may then
be transported via TCP
←(Applicant).**

Further, Bavadekar then discusses at [0050], “In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection.”

(Emphases added.)

This “teaches away” from the tunneling as disclosed by the Applicant.

Applicant submits that the Examiner has failed to establish a *prima facie* rejection under 35 U.S.C. § 102(e) because “Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick ("Lindemann")*, 730 F.2d 1452, 1458 (Fed. Cir. 1984) (emphasis added). Additionally, each and every element of the claim must be *exactly* disclosed in the anticipatory reference. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 777 (Fed. Cir. 1985).

Applicant submits that because Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer that Bavadekar cannot anticipate what Applicant has claimed. Applicant respectfully requests allowance of independent claim 1, and claims 2-9 which are dependent on claim 1.

//

Fifth Answer - Claim 1 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at (9) Page 3-4 states:

2. As per claim 1, Bavadekar discloses a computer network architecture comprising:

a first layer including a transmission control protocol connection [Bavadekar, TCP connection, 0050];

a second layer including a hyper text transfer protocol connection built upon the first layer [Bavadelar [sic], HTTP tunnel, 0050];

a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection [Bavadekar, HTTP tunnel broker driver 240; HTTP tunnel servlet 214, Fig 3B]; and a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer [Bavadelar [sic], HTTP tunnel may multiplex packets from the clients onto TCP connection, 0050].

The cited reference states:

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

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 - a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer.

To better assist in the discussion that follows, Applicant has added the **bolded** bracketed notations to the first portion of Bavadekar paragraph [0050] to better illustrate the entities as may be seen in Bavadekar Figure 3B and **bolded** bracketed notations to Applicant's claim 1.

[0050] In one embodiment, [**see Figure 3B**] one Web server [**208**] and one tunnel servlet [**214**] may be used by two or more clients [**200A, 200B**] to communicate to a broker [**202**] via tunnel connections. In this embodiment, the HTTP tunnel servlet [**214**] may multiplex transport protocol packets from the two or more clients [**200A, 200B**] onto the TCP connection [**216**]. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

(Emphases added.)

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(Emphasis added.)

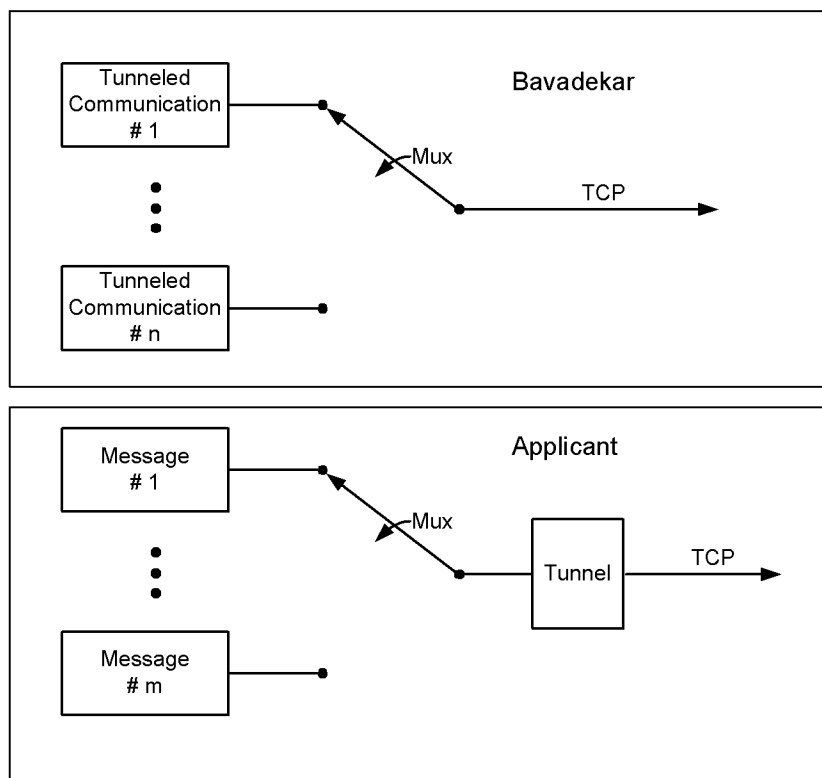
Applicant submits that Bavadekar additionally discloses at [0074]:

[0074] The HTTP tunnel client driver 220 may then send the messages as HTTP POST request payloads. The HTTP tunnel client driver 220 may also use separate HTTP requests to periodically pull any data sent by the other end of the connection. The HTTP requests may be sent through HTTP proxy 206, Internet 204, and firewall 210 to Web server 208. On Web server 208, the HTTP tunnel servlet 214 may act as a transceiver and may *multiplex the HTTP requests* from multiple clients *onto a single TCP connection* 216 with the broker 202. The HTTP tunnel broker driver 240 may receive the HTTP requests from the Web server 210 over TCP connection 216.

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Thus Bavadekar discloses multiplexing the transport protocol packets [0050] or the HTTP requests [0074]. In either case the packets or requests are already arriving at the HTTP tunnel servlet 214 of Bavadekar as tunnel communications. Thus Bavadekar is multiplexing tunnel communications onto TCP 216. In contrast Applicant is multiplexing a plurality of messages into the tunneling which may then be transported via TCP.

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Further, Bavadekar then discusses at [0050], “In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection.”

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This “teaches away” from the tunneling as disclosed by the Applicant.

Applicant submits that the Examiner has failed to establish a *prima facie* rejection under 35 U.S.C. § 102(e) because “Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick ("Lindemann")*, 730 F.2d 1452, 1458 (Fed. Cir. 1984) (emphasis added). Additionally, each and every element of the claim must be *exactly* disclosed in the anticipatory reference. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 777 (Fed. Cir. 1985).

Applicant submits that because Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer that Bavadekar cannot anticipate what Applicant has claimed. Applicant respectfully requests allowance of independent claim 1, and claims 2-9 which are dependent on claim 1.

//

Fourth Office - Claim 2 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 5 states:

5. As per claim 2, Bavadekar discloses the first tunneling protocol (i.e.: TCP) opens the HTTP connection between a server and a client [Bavadekar, 0050].

The cited reference states:

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

(Emphases added.)

Applicant's claim 2 recites:

2. The computer network architecture of claim 1, wherein the first tunneling protocol opens the hyper text transfer protocol connection between a server and a client.

Firstly,

Claim 2 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 2. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 2. Applicant respectfully requests allowance of claim 2.

Secondly,

Applicant submits that the Office is incorrect when stating: "Bavadekar discloses the first tunneling protocol (i.e.: TCP)". (Emphasis added.) On the contrary, Bavadekar discloses only HTTP tunnel connections. Bavadekar does not disclose TCP to be a tunneling protocol. Bavadekar discloses TCP to be a connection (TCP Connection 216). The significance of this will become apparent in later claims where the Office tries to assert that the TCP is the first tunnel and that HTTP is a second tunnel.

Summary – claim 2

For the above reasons, Bavadekar cannot anticipate Applicant's claim 2. Applicant respectfully requests allowance of claim 2.

//

Fifth Answer - Claim 2 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at (9) Page 4 states:

The Office at 3. states:

3. As per claim 2, Bavadekar discloses the first tunneling protocol (i.e.: TCP) opens the HTTP connection between a server and a client [Bavadekar, 0050].

The cited reference states:

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

(Emphases added.)

Applicant's claim 2 recites:

2. The computer network architecture of claim 1, wherein the first tunneling protocol opens the hyper text transfer protocol connection between a server and a client.

Firstly,

Claim 2 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 2. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 2. Applicant respectfully requests allowance of claim 2.

Secondly,

Applicant submits that the Office is incorrect when stating: "Bavadekar discloses the first tunneling protocol (i.e.: TCP)". (Emphasis added.) On the contrary, Bavadekar discloses only HTTP tunnel connections. Bavadekar does not disclose TCP to be a tunneling protocol. Bavadekar discloses TCP to be a connection (TCP Connection 216). The significance of this will become apparent in later claims where the Office tries to assert that the TCP is the first tunnel and that HTTP is a second tunnel.

Summary – claim 2

For the above reasons, Bavadekar cannot anticipate Applicant's claim 2. Applicant respectfully requests allowance of claim 2.

//

Fourth Office - Claims 10-11, 19-20 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 6 states:

6. Claims 10-11, 19-20 contain the similar limitations set forth of apparatus claims 1-2. Therefore, claims 10-11, 19-20 are rejected for the similar rationale set forth in claims 1-2.

Applicant submits that with respect to claims 10-11 and 19-20, that as discussed above in the claim 1-2 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claims 10-11 and 19-20. Applicant respectfully requests allowance of independent claims 10, and 19, and claims 11-18 and 20-27 which are dependent upon independent claims 10 and 19 respectively.

//

Fifth Answer - Claims 10-11, 19-20 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 4 states:

The Office at 4. states:

4. Claims 10-11, 19-20 contain the similar limitations set forth of apparatus claims 1-2. Therefore, claims 10-11, 19-20 are rejected for the similar rationale set forth in claims 1-2.

Applicant submits that with respect to claims 10-11 and 19-20, that as discussed above in the claim 1-2 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claims 10-11 and 19-20. Applicant respectfully requests allowance of independent claims 10, and 19, and claims 11-18 and 20-27 which are dependent upon independent claims 10 and 19 respectively.

//

Fourth Office - Claim 3 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 7 states:

7. As per claim 3, Bavadekar discloses a second tunneling layer (i.e.: HTTP tunnel) including a second tunneling protocol (i.e.: HTTP protocol) built upon the first layer to tunnel a message through the TCP connection [Bavadekar, 0050].

(Emphasis added.)

The cited reference states in part: [Bavadekar, 0050].

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

Applicant's claim 3 recites:

3. The computer network architecture of claim 1, further comprising:
a second tunneling layer including a second tunneling protocol built upon the first layer to tunnel a message through the transmission control protocol connection.

Applicant submits that Bavadekar does not disclose any second tunneling layer. The Office states: "Bavadekar discloses a second tunneling layer (i.e.: HTTP tunnel) including a second tunneling protocol (i.e.: HTTP protocol) built upon the first layer to tunnel a message through the TCP connection [Bavadekar, 0050]."

(Emphasis added.)

Firstly,

Claim 3 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 3. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 3. Applicant respectfully requests allowance of claim 3.

Secondly,

As explained above (claim 2 – Secondly), Bavadekar discloses only a single tunnel, that of the HTTP tunnel connections. Bavadekar does not disclose TCP to be a tunneling protocol. Bavadekar discloses TCP to be a connection (TCP Connection 216). Thus, Bavadekar does not disclose what Applicant has claimed ("a second tunneling layer").

Thirdly,

The Office statement is inconsistent. On the one hand, the Office is claiming the TCP to be a first tunnel, HTTP to be the second tunnel, and then wants to assert "to tunnel a message through the TCP connection." (Emphasis added.) The Office cannot have the TCP as both a connection and tunnel. Since Bavadekar describes the TCP as a connection, Applicant submits that the Office is incorrect in characterizing the TCP as a tunnel. Reference is made to Bavadekar paragraph [0036] where tunneling is defined.

Summary – claim 3

For the above reasons, Bavadekar cannot anticipate Applicant's claim 3. Applicant respectfully requests allowance of claim 3, and claims 4-5 which are dependent on claim 3.

//

Fifth Answer - Claim 3 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 4 states:

The Office at 5. states:

5. As per claim 3, Bavadekar discloses a second tunneling layer (i.e.: HTTP tunnel) including a second tunneling protocol (i.e.: HTTP protocol) built upon the first layer to tunnel a message through the TCP connection [Bavadekar, 0050].

(Emphasis added.)

The cited reference states in part: [Bavadekar, 0050].

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

Applicant's claim 3 recites:

3. The computer network architecture of claim 1, further comprising:
a second tunneling layer including a second tunneling protocol built upon the first layer to tunnel a message through the transmission control protocol connection.

Applicant submits that Bavadekar does not disclose any second tunneling layer. The Office states: "Bavadekar discloses a second tunneling layer (i.e.: HTTP tunnel) including a second tunneling protocol (i.e.: HTTP protocol) built upon the first layer to tunnel a message through the TCP connection [Bavadekar, 0050]."

(Emphasis added.)

Firstly,

Claim 3 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 3. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 3. Applicant respectfully requests allowance of claim 3.

Secondly,

As explained above (claim 2 – Secondly), Bavadekar discloses only a single tunnel, that of the HTTP tunnel connections. Bavadekar does not disclose TCP to be a tunneling protocol. Bavadekar discloses TCP to be a connection (TCP Connection 216). See Bavadekar at end of [0074]. Thus, Bavadekar does not disclose what Applicant has claimed ("a second tunneling layer").

Thirdly,

The Office statement is inconsistent. On the one hand, the Office is claiming the TCP to be a first tunnel, HTTP to be the second tunnel, and then wants to assert "to tunnel a message through the TCP connection." (Emphasis added.) The Office cannot have the TCP as both a connection and tunnel. Since Bavadekar describes the TCP as a connection (see Bavadekar [0074]), Applicant submits that the Office is incorrect in characterizing the TCP as a tunnel. Reference is made to Bavadekar paragraph [0036] where tunneling is defined.

Summary – claim 3

For the above reasons, Bavadekar cannot anticipate Applicant's claim 3. Applicant respectfully requests allowance of claim 3, and claims 4-5 which are dependent on claim 3.

//

Fourth Office - Claim 4 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 8 states:

8. As per claim 4, Bavadekar-Pujare disclose the second tunneling protocol is used to open the TCP connection between the server and the client [Bavadekar, 0050].

The cited reference states:

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

Applicant's claim 4 recites:

4. The computer network architecture of claim 3, wherein the second tunneling protocol is used to open the transmission control protocol connection between the server and the client.

Firstly,

Claim 4 is dependent on claim 3 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 4. Further, Bavadekar cannot anticipate the further limitation of Applicant's claims 3 and 4. Applicant respectfully requests allowance of claim 4, and claim 5 which is dependent on claim 4.

Secondly,

Nowhere in the cited section does Bavadekar disclose or discuss a second tunneling protocol as Applicant has claimed. Bavadekar only discusses a single tunnel protocol, that being an HTTP tunnel protocol (see Bavadekar Abstract – “A system and method for providing HTTP tunnel connections between entities such as clients and servers in a messaging system is described.” (Emphasis added.) Since Bavadekar does not disclose a second tunneling protocol as Applicant has claimed, Bavadekar cannot anticipate Applicant's claim.

Thirdly,

Applicant notes that the Office mentions Pujare in paragraph 8. but cites no reference or argument. Applicant submits that Pujare does not anticipate the limitations of claim 1 or claim 4.

Summary – claim 4

For the above reasons, Bavadekar cannot anticipate Applicant's claim 4. Applicant respectfully requests allowance of claim 4, and claim 5 which is dependent on claim 4.

//

Fifth Answer - Claim 4 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 5 states:

The Office at 6. states:

6. As per claim 4, Bavadekar discloses the second tunneling protocol is used to open the TCP connection between the server and the client [Bavadekar, server-client, 0078].

The cited reference states:

[0078] In one embodiment, when a connection is established between two entities or nodes (e.g. a server and client), each node may inform the other of how many packets it can initially receive. In a network, a node is a connection point, either a redistribution point or an end point for data transmissions. In general, a node has programmed or engineered capability to recognize, process and/or forward transmissions to other nodes. In one embodiment, each packet received by the receiver may be acknowledged with a packet sent to the sender. The acknowledgement packets may each include information indicating the current receive buffer size (i.e. the number of packets that the receiver can currently receive). Thus, the sender can determine the number of packets that it can send to the receiver without overwhelming the sender.

Applicant's claim 4 recites:

4. The computer network architecture of claim 3, wherein the second tunneling protocol is used to open the transmission control protocol connection between the server and the client.

Firstly,

Claim 4 is dependent on claim 3 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 4. Further, Bavadekar cannot anticipate the further limitation of Applicant's claims 3 and 4. Applicant respectfully requests allowance of claim 4, and claim 5 which is dependent on claim 4.

Secondly,

Nowhere in the cited section does Bavadekar disclose or discuss a second tunneling protocol as Applicant has claimed. Bavadekar only discusses a connection such as a server to a client and the exchange of information, for example "current receive buffer size." Since Bavadekar does not disclose a second tunneling protocol as Applicant has claimed, Bavadekar cannot anticipate Applicant's claim.

Summary – claim 4

For the above reasons, Bavadekar cannot anticipate Applicant's claim 4. Applicant respectfully requests allowance of claim 4, and claim 5 which is dependent on claim 4.

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Fourth Office - Claim 5 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 9 states:

9. As per claim 5, Bavadekar-Pujare disclose tunneling protocol opens the HTTP connection if the second tunneling protocol is not successful in opening the TCP connection [Bavadekar, 0050].

The cited reference states:

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

Applicant's claim 5 recites:

5. The computer network architecture of claim 4, wherein the first tunneling protocol opens the hyper text transfer protocol connection if the second tunneling protocol is not successful in opening the transmission control protocol connection.

Firstly,

Claim 5 is dependent on claim 4 which is dependent on claim 3 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 5. Further, Bavadekar cannot anticipate the further limitation of Applicant's claims 3, 4, and 5. Applicant respectfully requests allowance of claim 5.

Secondly,

Nowhere in the cited section does Bavadekar disclose or discuss the condition where another protocol is tried if a first one is not successful (i.e. first protocol is attempted if a second protocol is not successful). Since Bavadekar does not disclose this limitation of Applicant's claim 5, Bavadekar cannot anticipate Applicant's claim.

Thirdly,

Applicant notes that the Office mentions Pujare in paragraph 9. but cites no reference or argument. Applicant submits that Pujare does not anticipate the limitations of claim 1 or claim 5.

Summary – claim 5

For the above reasons, Bavadekar cannot anticipate Applicant's claim 5. Applicant respectfully requests allowance of claim 5.

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Fifth Answer - Claim 5 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 5 states:

The Office at 7. states:

7. As per claim 5, Bavadekar discloses tunneling protocol opens the HTTP connection if the second tunneling protocol is not successful in opening the TCP connection [Bavadekar, exchange message, 0079].

The cited reference states:

[0079] In one embodiment, the client 200, broker 202 and the messaging protocol layers 212 may function similarly whether the underlying transport protocol is TCP or HTTP. In one embodiment, the messaging protocol layers 212 on both the client and the broker may use the same basic design and threading model for TCP and HTTP support. In one embodiment, an enterprise messaging system using the HTTP tunneling protocol may allow a messaging system application to exchange messages using the TCP, HTTP, SSL, or other protocol by changing appropriate configuration parameters at runtime. Thus, the application developer may not have to write any transport specific code. A client library and the broker 202 may handle the transport-specific details.

Applicant's claim 5 recites:

5. The computer network architecture of claim 4, wherein the first tunneling protocol opens the hyper text transfer protocol connection if the second tunneling protocol is not successful in opening the transmission control protocol connection.

(Emphases added.)

Firstly,

Claim 5 is dependent on claim 4 which is dependent on claim 3 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 5. Further, Bavadekar cannot anticipate the further limitation of Applicant's claims 3, 4, and 5. Applicant respectfully requests allowance of claim 5.

Secondly,

Nowhere in the cited section does Bavadekar disclose or discuss the condition where another protocol is tried ***if*** a first one is not successful (i.e. first protocol is attempted if a second protocol is not successful). Since Bavadekar does not disclose this limitation of Applicant's claim 5, Bavadekar cannot anticipate Applicant's claim.

Summary – claim 5

For the above reasons, Bavadekar cannot anticipate Applicant's claim 5. Applicant respectfully requests allowance of claim 5.

//

Fourth Office - Claim 6 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 10 states:

10. As per claim 6, Bavadekar-Pujare disclose the messages include binary format [Pujare, digital signals, 0155].

Applicant notes that at this point, it is unclear as to whether the Office is referring to the Bavadekar reference mentioned or to Pujare, therefore Applicant will discuss both.

The cited references state:

(Pujare) [0155] E) Network Spoofing for Client-server Applications

(Bavadekar) [0155] Various embodiments may further include receiving, sending or storing instructions and/or data implemented in accordance with the foregoing description upon a carrier medium. Generally speaking, a carrier medium may include storage media or memory media such as magnetic or optical media, e.g., disk or CD-ROM, volatile or non-volatile media such as RAM (e.g. SDRAM, DDR SDRAM, RDRAM, SRAM, etc.), ROM, etc. as well as transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link.

Applicant's claim 6 recites:

6. The computer network of claim 1, wherein the messages include binary format messages.

Firstly,

With respect to Bavadekar:

Claim 6 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 6. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 6. Applicant respectfully requests allowance of claim 6.

Secondly,

With respect to Pujare:

Pujare at the cited section only discloses "Network Spoofing for Client-server Applications" and does not disclose multiplexing a plurality of messages for transmission through the first tunneling layer which Applicant has claimed in claim 1. Therefore Pujare cannot anticipate Applicant's claim 1 upon which claim 6 is dependent and cannot anticipate Applicant's claim 6. Further, Pujare fails to disclose or suggest the further limitations of claim 6. Applicant respectfully requests allowance of claim 6.

Summary – claim 6

For the above reasons, neither Bavadekar nor Pujare anticipate Applicant's claim 6. Applicant respectfully requests allowance of claim 6.

//

Fifth Answer - Claim 6 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 5 states:

The Office at 8. states:

8. As per claim 6, Bavadekar discloses the messages include binary format [Bavadekar, digital signals, 0155].

The cited reference states:

[0155] Various embodiments may further include receiving, sending or storing instructions and/or data implemented in accordance with the foregoing description upon a carrier medium. Generally speaking, a carrier medium may include storage media or memory media such as magnetic or optical media, e.g., disk or CD-ROM, volatile or non-volatile media such as RAM (e.g. SDRAM, DDR SDRAM, RDRAM, SRAM, etc.), ROM, etc. as well as transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link.

Applicant's claim 6 recites:

6. The computer network of claim 1, wherein the messages include binary format messages.

Claim 6 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 6. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 6. Applicant respectfully requests allowance of claim 6.

Summary – claim 6

For the above reasons, Bavadekar does not anticipate Applicant's claim 6. Applicant respectfully requests allowance of claim 6.

//

Fourth Office - Claim 7 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 11 states:

11. As per claim 7, Bavadekar-Pujare disclose the plurality of messages includes a plurality of operational messages and a plurality of administrative messages [Bavadekar, administrative control, 0038].

The cited reference states:

[0038] In an enterprise that uses the Internet, a proxy server is a server that acts as an intermediary between a workstation user and the Internet so that the enterprise can ensure security, administrative control, and caching service. A proxy server may be associated with or part of a gateway server that separates the enterprise network from the outside network and a firewall server that protects the enterprise network from outside intrusion.

(Emphasis added.)

Applicant's claim 7 recites:

7. The computer network architecture of claim 1, wherein the plurality of messages includes a plurality of operational messages and a plurality of administrative messages.

Firstly,

Claim 7 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 7. Further,

Bavadekar cannot anticipate the further limitation of Applicant's claim 7. Applicant respectfully requests allowance of claim 7.

Secondly,

Applicant submits that the Office is incorrectly equating Bavadekar's "administrative control" with Applicant's "administrative messages". Control is not the same as messages.

Thirdly,

Applicant notes that the Office mentions Pujare in paragraph 11. but cites no reference or argument. Applicant submits that Pujare does not anticipate the limitations of claim 1 or claim 7.

Summary – claim 7

For the above reasons, Bavadekar does not anticipate Applicant's claim 7. Applicant respectfully requests allowance of claim 7, and claims 8-9 which are dependent on claim 7.

//

Fifth Answer - Claim 7 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 5 states:

The Office at 9. states:

9. As per claim 7, Bavadekar discloses [sic] the plurality of messages includes a plurality of operational messages and a plurality of administrative messages [Bavadekar, administrative control, 0038].

The cited reference states:

[0038] In an enterprise that uses the Internet, a proxy server is a server that acts as an intermediary between a workstation user and the Internet so that the enterprise can ensure security, administrative control, and caching service. A proxy server may be associated with or part of a gateway server that separates the enterprise network from the outside network and a firewall server that protects the enterprise network from outside intrusion.

(Emphasis added.)

Applicant's claim 7 recites:

7. The computer network architecture of claim 1, wherein the plurality of messages includes a plurality of operational messages and a plurality of administrative messages.

Firstly,

Claim 7 is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 7. Further, Bavadekar cannot anticipate the further limitation of Applicant's claim 7. Applicant respectfully requests allowance of claim 7.

Secondly,

Applicant submits that the Office is incorrectly equating Bavadekar's "administrative control" with Applicant's "administrative messages". Control is not the same as messages.

Thirdly,

Assuming arguendo that Bavadekar's "administrative control" is similar to Applicant's administrative messages, Bavadekar still fails to disclose Applicant's *operational* messages. Applicant has claimed both - "a plurality of *operational* messages **and** a plurality of *administrative* messages." (Emphases added.)

Summary – claim 7

For the above reasons, Bavadekar does not anticipate Applicant's claim 7. Applicant respectfully requests allowance of claim 7, and claims 8-9 which are dependent on claim 7.

//

Fourth Office - Claim 8 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 12 states:

12. As per claim 8, Bavadekar-Pujare disclose the operational messages include operational data [Pujare, parameter, 0148].

Applicant again notes that at this point, it is unclear as to whether the Office is referring to the Bavadekar reference mentioned or to Pujare, therefore Applicant will discuss both.

The cited references state:

(Pujare) [0148] i) Client License Manager 303--This is the same component explained above.

(Bavadekar) [0148] Either client 200 or server 202 may set connection options. This may be used to control the runtime parameters associated with a connection. For example, this may be used to control how often packets are pulled from a Web server. As another example, this may be used to configure how long a client may remain inactive before the connection is dropped. The connection option values are part of the connection state information, and hence, in one embodiment, an HTTP packet including the following information may be used to update the connection options:

Applicant's claim 8 recites:

8. The computer network architecture of claim 7, wherein the operational messages include operational data.

Firstly,

With regard to Bavadekar:

Claim 8 is dependent on claim 7 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 8. Further, Bavadekar cannot anticipate the further limitations of Applicant's claims 7 and 8. Applicant respectfully requests allowance of claim 7.

Secondly,

With respect to Pujare:

Pujare at the cited section only discloses "Client License Manager 303--This is the same component explained above." and does not disclose multiplexing a plurality of messages for transmission through the first tunneling layer which Applicant has claimed in claim 1. Therefore Pujare cannot anticipate Applicant's claim 1 upon which claim 8 is dependent and cannot anticipate Applicant's claim 8. Further, Pujare fails to disclose or suggest the further limitations of claims 7 and 8. Applicant respectfully requests allowance of claim 8.

Summary – claim 8

For the above reasons, neither Bavadekar nor Pujare anticipate Applicant's claim 8.

Applicant respectfully requests allowance of claim 8.

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Fifth Answer - Claim 8 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 5 states:

The Office at 10. states:

10. As per claim 8, Bavadekar discloses the operational messages include operational data [Bavadekar, parameter, 0148].

The cited reference states:

[0148] Either client 200 or server 202 may set connection options. This may be used to control the runtime parameters associated with a connection. For example, this may be used to control how often packets are pulled from a Web server. As another example, this may be used to configure how long a client may remain inactive before the connection is dropped. The connection option values are part of the connection state information, and hence, in one embodiment, an HTTP packet including the following information may be used to update the connection options:

Applicant's claim 8 recites:

8. The computer network architecture of claim 7, wherein the operational messages include operational data.

Firstly,

Claim 8 is dependent on claim 7 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 8. Further, Bavadekar cannot anticipate the further limitations of Applicant's claims 7 and 8. Applicant respectfully requests allowance of claim 7.

Secondly,

Claim 8 is dependent on claim 7 and as discussed above in the claim 7 discussion the Office is incorrectly equating Bavadekar's "administrative control" with Applicant's "administrative messages". Control is not the same as messages.

Thirdly,

Claim 8 is dependent on claim 7 and as discussed above in the claim 7 discussion *assuming arguendo* that Bavadekar's "administrative control" is similar to Applicant's administrative messages, Bavadekar still fails to disclose Applicant's *operational* messages. Applicant has claimed both - "a plurality of *operational* messages **and** a plurality of *administrative* messages." (Emphases added.)

Summary – claim 8

For the above reasons, Bavadekar does not anticipate Applicant's claim 8. Applicant respectfully requests allowance of claim 8.

//

Fourth Office - Claim 9 Rejection under 35 U.S.C. § 102(e) - Bavadekar

The Office at 13 states:

13. As per claim 9, Bavadekar-Pujare disclose the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages [Pujare, update options, parameter, 0148].

Applicant again notes that at this point, it is unclear as to whether the Office is referring to the Bavadekar reference mentioned or to Pujare, therefore Applicant will discuss both.

The cited references state:

(Pujare) [0148] i) Client License Manager 303--This is the same component explained above.

(Bavadekar) [0148] Either client 200 or server 202 may set connection options. This may be used to control the runtime parameters associated with a connection. For example, this may be used to control how often packets are pulled from a Web server. As another example, this may be used to configure how long a client may remain inactive before the connection is dropped. The connection option values are part of the connection state information, and hence, in one embodiment, an HTTP packet including the following information may be used to update the connection options:

Applicant's claim 9 recites:

9. The computer network architecture of claim 7, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

Firstly,

With regard to Bavadekar:

Claim 9 is dependent on claim 7 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 9. Further, Bavadekar cannot anticipate the further limitations of Applicant's claims 7 and 9. Applicant respectfully requests allowance of claim 9.

Secondly,

With respect to Pujare:

Pujare at the cited section only discloses "Client License Manager 303--This is the same component explained above." and does not disclose multiplexing a plurality of messages for transmission through the first tunneling layer which Applicant has claimed in claim 1. Therefore Pujare cannot anticipate Applicant's claim 1 upon which claim 9 is dependent and cannot anticipate Applicant's claim 9. Further, Pujare fails to disclose or suggest the further limitations of claims 7 and 9. Applicant respectfully requests allowance of claim 9.

Summary – claim 9

For the above reasons, neither Bavadekar nor Pujare anticipate Applicant's claim 9.
Applicant respectfully requests allowance of claim 9.

//

Fifth Answer - Claim 9 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 5 states:

The Office at 11. states:

11. As per claim 9, Bavadekar discloses the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages [Bavadekar, administrative control, 0038].

The cited reference states:

[0038] In an enterprise that uses the Internet, a proxy server is a server that acts as an intermediary between a workstation user and the Internet so that the enterprise can ensure security, administrative control, and caching service. A proxy server may be associated with or part of a gateway server that separates the enterprise network from the outside network and a firewall server that protects the enterprise network from outside intrusion.

(Emphasis added.)

Applicant's claim 9 recites:

9. The computer network architecture of claim 7, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

Firstly,

With regard to Bavadekar:

Claim 9 is dependent on claim 7 which is dependent on claim 1, and as discussed above in the claim 1 discussion, Bavadekar fails to disclose multiplexing a plurality of messages for transmission through the first tunneling layer, therefore Bavadekar cannot anticipate Applicant's claim 9. Further, Bavadekar cannot anticipate the further limitations of Applicant's claims 7 and 9. Applicant respectfully requests allowance of claim 9.

Secondly,

Claim 9 is dependent on claim 7 and as discussed above in the claim 7 discussion the Office is incorrectly equating Bavadekar's "administrative control" with Applicant's "administrative messages". Control is not the same as messages.

Thirdly,

Claim 9 is dependent on claim 7 and as discussed above in the claim 7 discussion *assuming arguendo* that Bavadekar's "administrative control" is similar to Applicant's administrative messages, Bavadekar still fails to disclose Applicant's *operational* messages. Applicant has claimed both - "a plurality of *operational* messages **and** a plurality of *administrative* messages." (Emphases added.)

Fourthly,

Bavadekar fails to disclose debug messages, firmware update messages, or parameter configuration messages. Therefore Bavadekar cannot anticipate Applicant's claim 9.

Summary – claim 9

For the above reasons Bavadekar does not anticipate Applicant's claim 9. Applicant respectfully requests allowance of claim 9.

//

Fourth Office - Claims 12-18 and 21-27 Rejection under 35 U.S.C. § 102(e) - Bavadekar

Applicant notes that while claims 12-18 and 21-27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bavadekar that the Office has failed to particularly address each of the claims.

Applicant submits that for substantially the same reasons as detailed above in the claims 1-9 discussions that claims 12-18 and 21-27 are not anticipated by the cited art. Applicant respectfully requests allowance of claims 12-18 and 21-27.

//

Fifth Answer – Claims 10-27 Rejection under 35 U.S.C. § 102(e) – Bavadekar

The Office at (9) Page 6 states:

The Office at 12. states:

12. Claims 10-27 contain the identical limitations set forth of apparatus claims 1-9. Therefore, claims 10-27 are rejected for the similar rationale set forth in claims 1-9.

Applicant submits that for substantially the same reasons as detailed above in the claims 1-9 discussions that claims 10-27 are not anticipated by the cited art. Applicant respectfully requests allowance of claims 10-27.

//

CONCLUSION

Applicant submits that the rejection of dependent claims not specifically addressed, are addressed by Applicant's arguments to the independent claims on which they depend.

Applicant respectfully submits that the appealed claims in this application are patentable, and requests that the Board of Patent Appeals and Interferences direct allowance of all claims.

Respectfully submitted,

Heimlich Law

05/30/2008

/Alan Heimlich/

Date

Alan Heimlich / Reg 48808

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VIII. CLAIMS APPENDIX

The claims involved in this appeal (all pending claims) are as follows:

CLAIMS

What is claimed is:

1. (original) A computer network architecture comprising:
a first layer including a transmission control protocol connection;
a second layer including a hyper text transfer protocol connection built upon the first layer;
a first tunneling layer including a first tunneling protocol built upon the second layer to tunnel a message through the hyper text transfer protocol connection; and
a multiplexing layer to multiplex a plurality of messages for transmission through the first tunneling layer.
2. (original) The computer network architecture of claim 1, wherein the first tunneling protocol opens the hyper text transfer protocol connection between a server and a client.
3. (original) The computer network architecture of claim 1, further comprising:
a second tunneling layer including a second tunneling protocol built upon the first layer to tunnel a message through the transmission control protocol connection.

4. (original) The computer network architecture of claim 3, wherein the second tunneling protocol is used to open the transmission control protocol connection between the server and the client.
5. (original) The computer network architecture of claim 4, wherein the first tunneling protocol opens the hyper text transfer protocol connection if the second tunneling protocol is not successful in opening the transmission control protocol connection.
6. (original) The computer network of claim 1, wherein the messages include binary format messages.
7. (original) The computer network architecture of claim 1, wherein the plurality of messages includes a plurality of operational messages and a plurality of administrative messages.
8. (original) The computer network architecture of claim 7, wherein the operational messages include operational data.
9. (original) The computer network architecture of claim 7, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.
10. (original) A method for a computer network architecture comprising:

building a hyper text transfer protocol connection upon a transmission control protocol connection;

tunneling a message through the hyper text transfer protocol connection by using a first tunneling protocol layer including a first tunneling protocol; and

multiplexing a plurality of messages for transmission through the hyper text transfer protocol connection by using a multiplexing layer.

11. (original) The method of claim 10, wherein opening the hyper text transfer protocol connection between a server and a client by using the first tunneling layer.

12. (original) The method of claim 10, further comprising:

tunneling a message through the transmission control protocol connection by using a second tunneling protocol layer including a second tunneling protocol built upon the transmission control protocol connection.

13. (original) The method of claim 12, wherein opening the transmission control protocol connection between a server and a client by using the second tunneling protocol.

14. (original) The method of claim 13, wherein opening the hyper text transfer protocol connection by using the first tunneling protocol if the transmission control protocol connection is not successfully opened by using the second tunneling protocol.

15. (original) The method of claim 10, wherein the messages include binary format messages.

16. (original) The method of claim 10, wherein the plurality of messages include a plurality of operational messages and a plurality of administrative messages.

17. (original) The method of claim 16, wherein the operational messages include operational data.

18. (original) The method of claim 16, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

19. (original) A computer readable medium having instructions which, when executed by a processing system, cause the system to perform a method comprising:

building a hyper text transfer protocol connection upon a transmission control protocol connection;

tunneling a message through the Hyper Text Transfer Protocol connection by using a first tunneling protocol layer including a first tunneling protocol; and

multiplexing a plurality of messages for transmission through the Hyper Text Transfer Protocol connection by using a multiplexing layer.

20. (original) The medium of claim 19, wherein opening the Hyper Text Transfer Protocol connection between a server and a client by using the first tunneling layer.

21. (original) The medium of claim 19, further comprising:

tunneling a message through the transmission control protocol connection by using a second tunneling protocol layer including a second tunneling protocol built upon the Transmission Control Protocol Connection.

22. (original) The medium of claim 21, wherein opening the Transmission Control Protocol connection between a server and a client by using the second tunneling protocol.

23. (original) The medium of claim 22, wherein opening the Hyper Text Transfer Protocol connection by using the first tunneling protocol if the Transmission Control Protocol connection is not successfully opened by using the second tunneling protocol.

24. (original) The medium of claim 19, wherein the messages include binary format messages.

25. (original) The medium of claim 19, wherein the plurality of messages include a plurality of operational messages and a plurality of administrative messages.

26. (original) The medium of claim 25, wherein the operational messages include operational data.

27. (original) The medium of claim 25, wherein the administrative messages can be selected from the group consisting of debug messages, firmware update messages and parameter configuration messages.

IX. EVIDENCE APPENDIX

Grouping of any Evidence for Claim purposes is for the convenience of reduced duplication and is NOT to be interpreted as the Grouping of Claims for Arguments under 37 C.F.R. § 41.37.

(A) Evidence for Claims 1-27 – Relied Upon

The following item (1) listed below is hereby entered as evidence relied upon by the Examiner as to grounds of rejection for claims 1-27, to be reviewed on appeal. Also listed for each item is where said evidence was entered into the record by the Examiner.

(1) Copy of US Patent Application Number 20030009571 ("Bavadekar"). This evidence was entered into the record by the Examiner on page 3 paragraph 3. of the Office Action mailed 03/23/2006.

Copies of all References follows.

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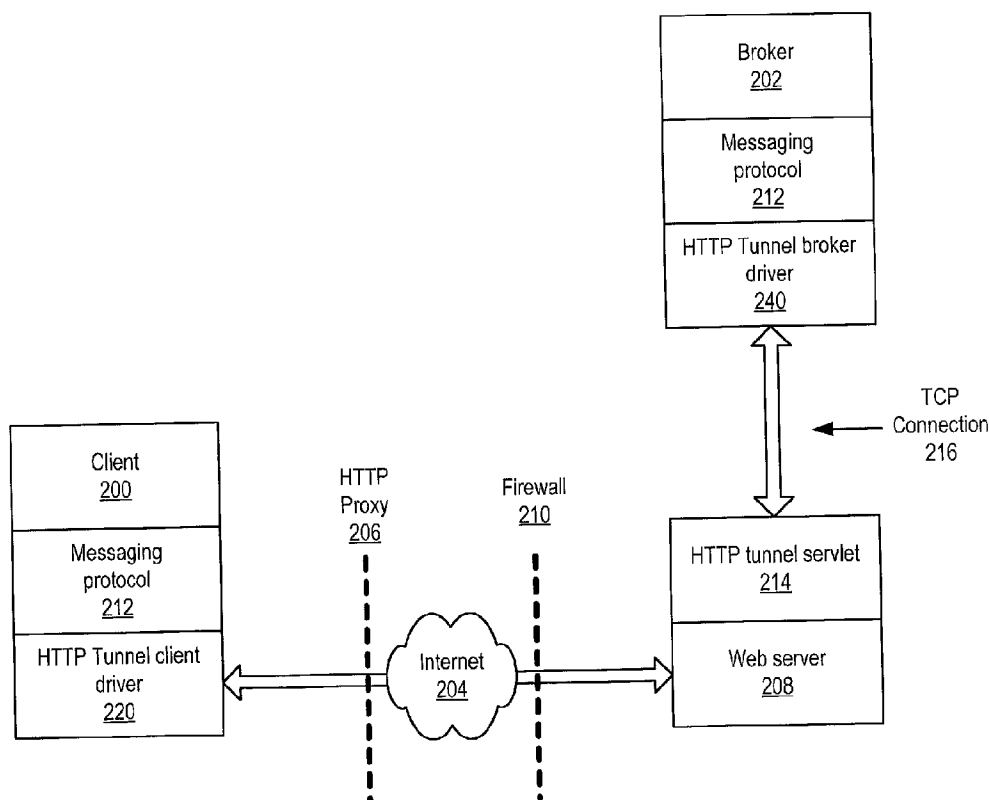
US 20030009571A1

(19) **United States**(12) **Patent Application Publication****Bavadekar**(10) **Pub. No.: US 2003/0009571 A1**(43) **Pub. Date:****Jan. 9, 2003**(54) **SYSTEM AND METHOD FOR PROVIDING
TUNNEL CONNECTIONS BETWEEN
ENTITIES IN A MESSAGING SYSTEM**(76) **Inventor: Shailesh S. Bavadekar, Sunnyvale, CA
(US)**

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(21) **Appl. No.: 09/894,318**(22) **Filed: Jun. 28, 2001****Publication Classification**(51) **Int. Cl.⁷ G06F 15/16**(52) **U.S. Cl. 709/230; 709/203**(57) **ABSTRACT**

A system and method for providing HTTP tunnel connections between entities such as clients and servers in a messaging system is described. An HTTP tunnel connection layer is described that may be used to provide reliable, full duplex virtual connections between entities (e.g. clients and brokers) in a distributed application environment using a messaging system. Also described is a novel HTTP tunneling protocol that may be used by the HTTP tunnel connection layer. The HTTP tunnel connection layer may be used by clients to access messaging servers through proxy servers and firewalls, thus expanding the scope of from where clients can access brokers. Using this layer, brokers as well as clients may initiate messaging system messages. This layer may also provide guaranteed data delivery with correct sequencing even in case of a failure on the network. This layer may also provide end-to-end flow control.



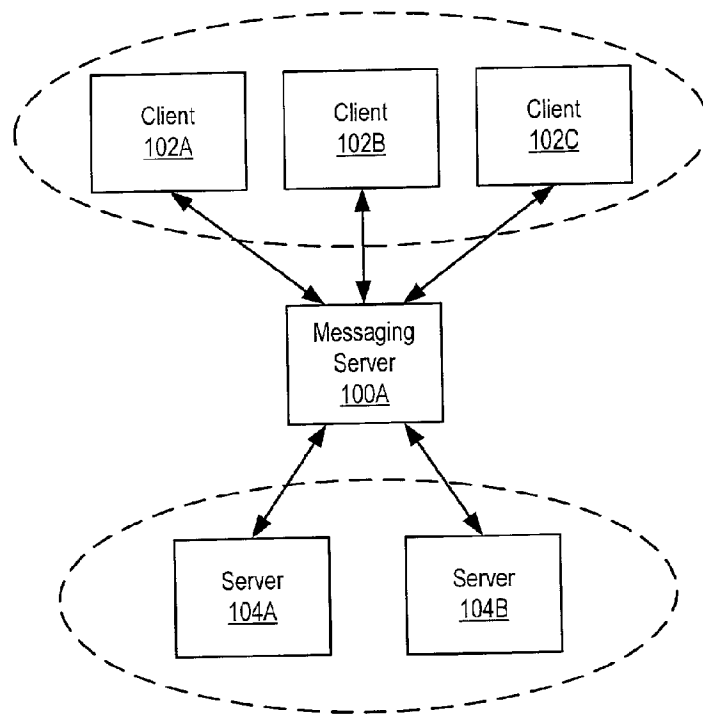


Figure 1 - Prior Art

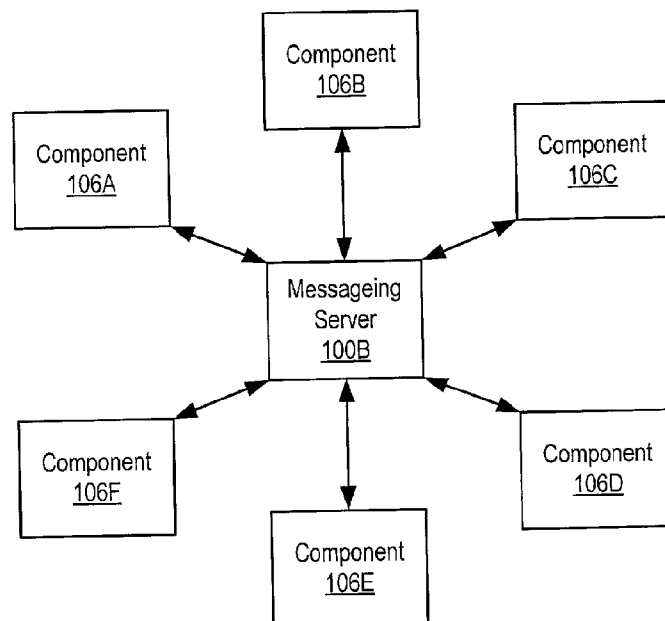


Figure 2 - Prior Art

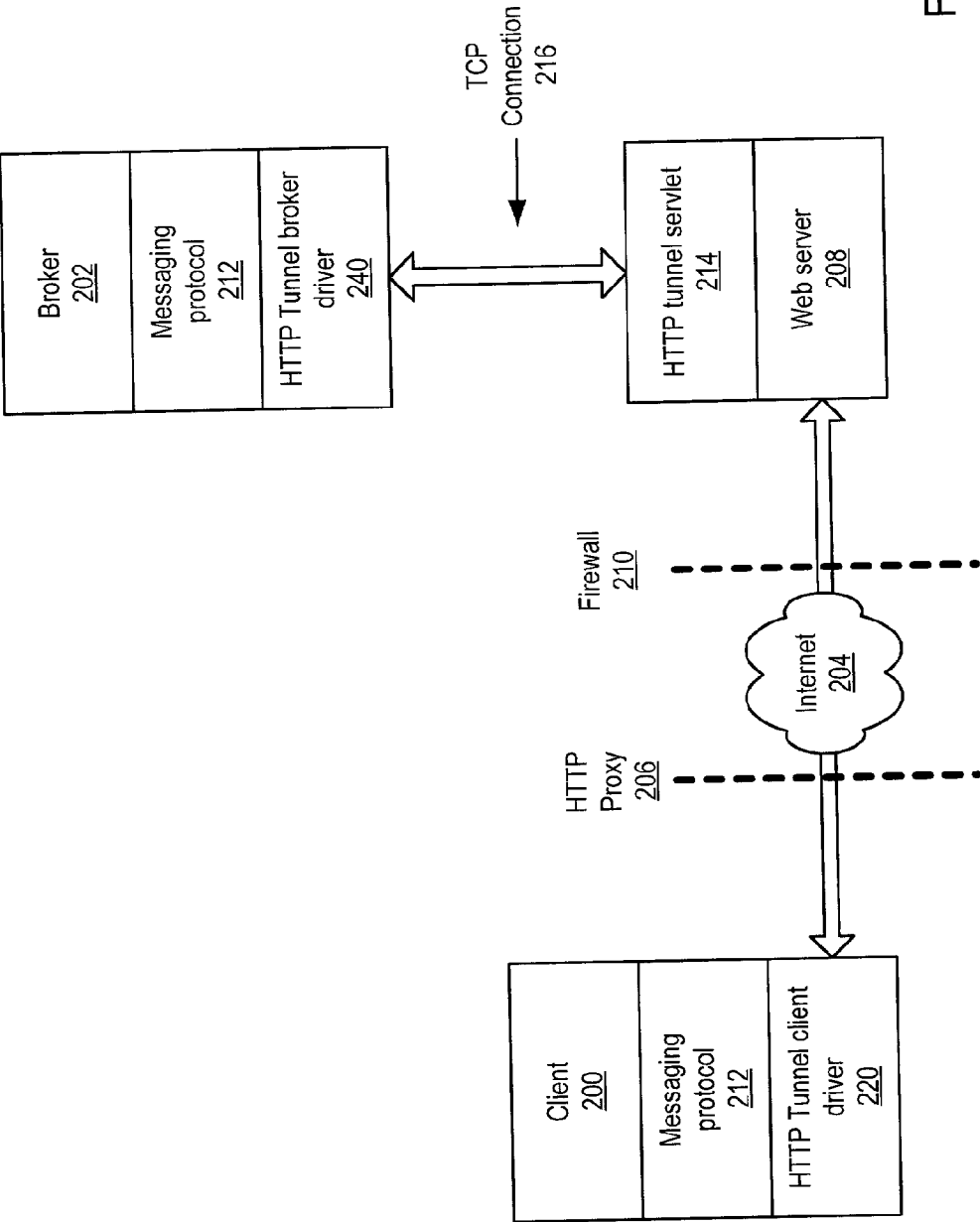


Figure 3A

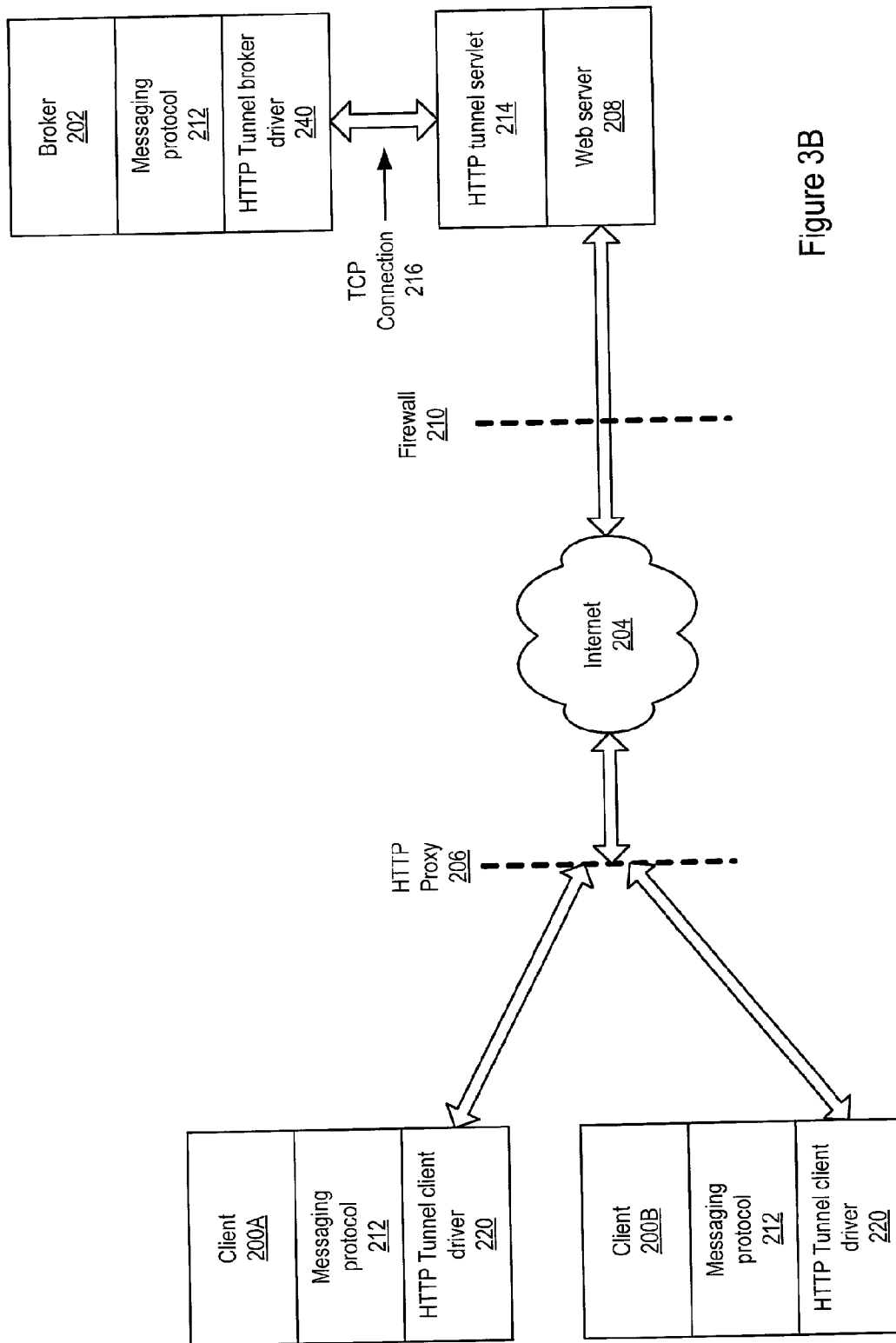


Figure 3B

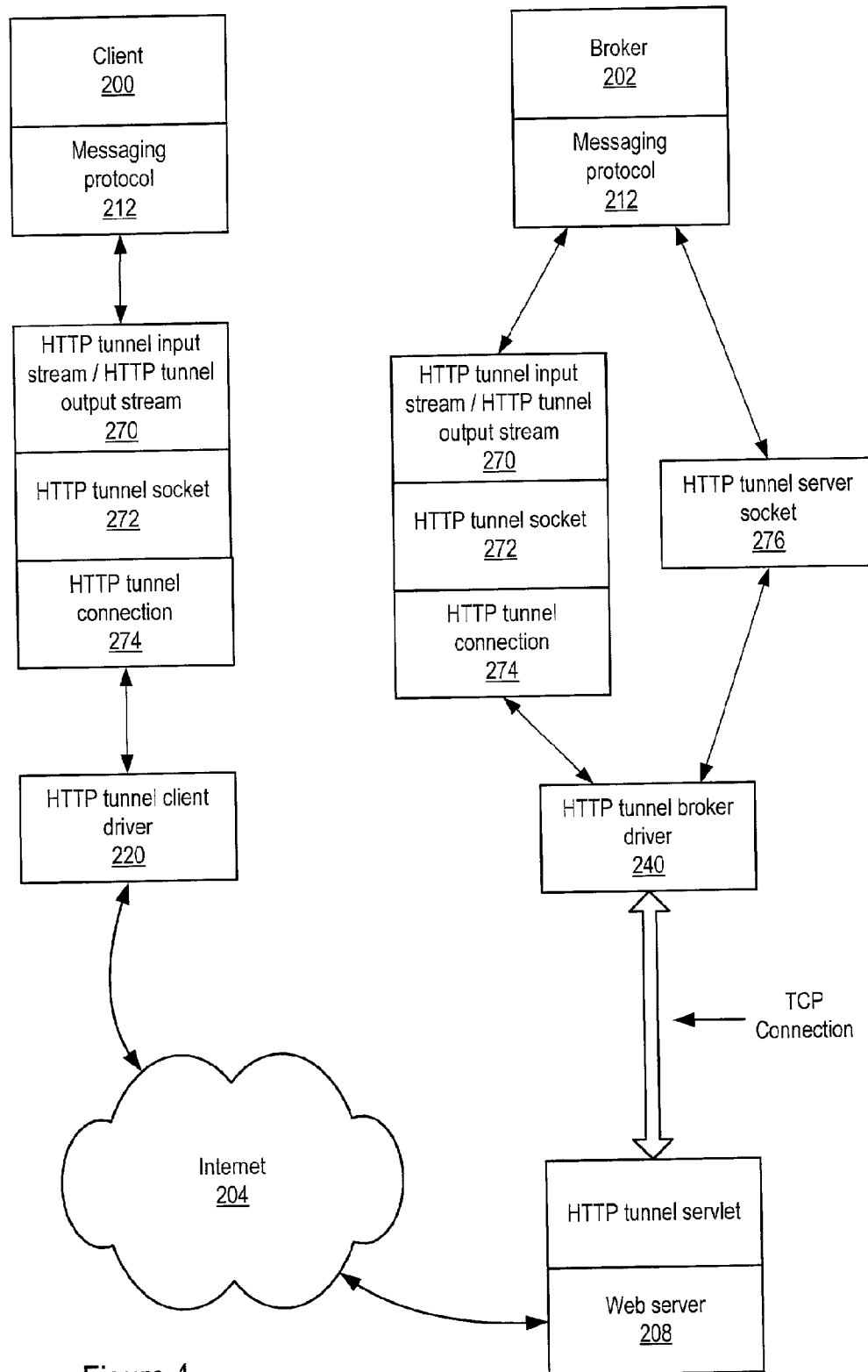


Figure 4

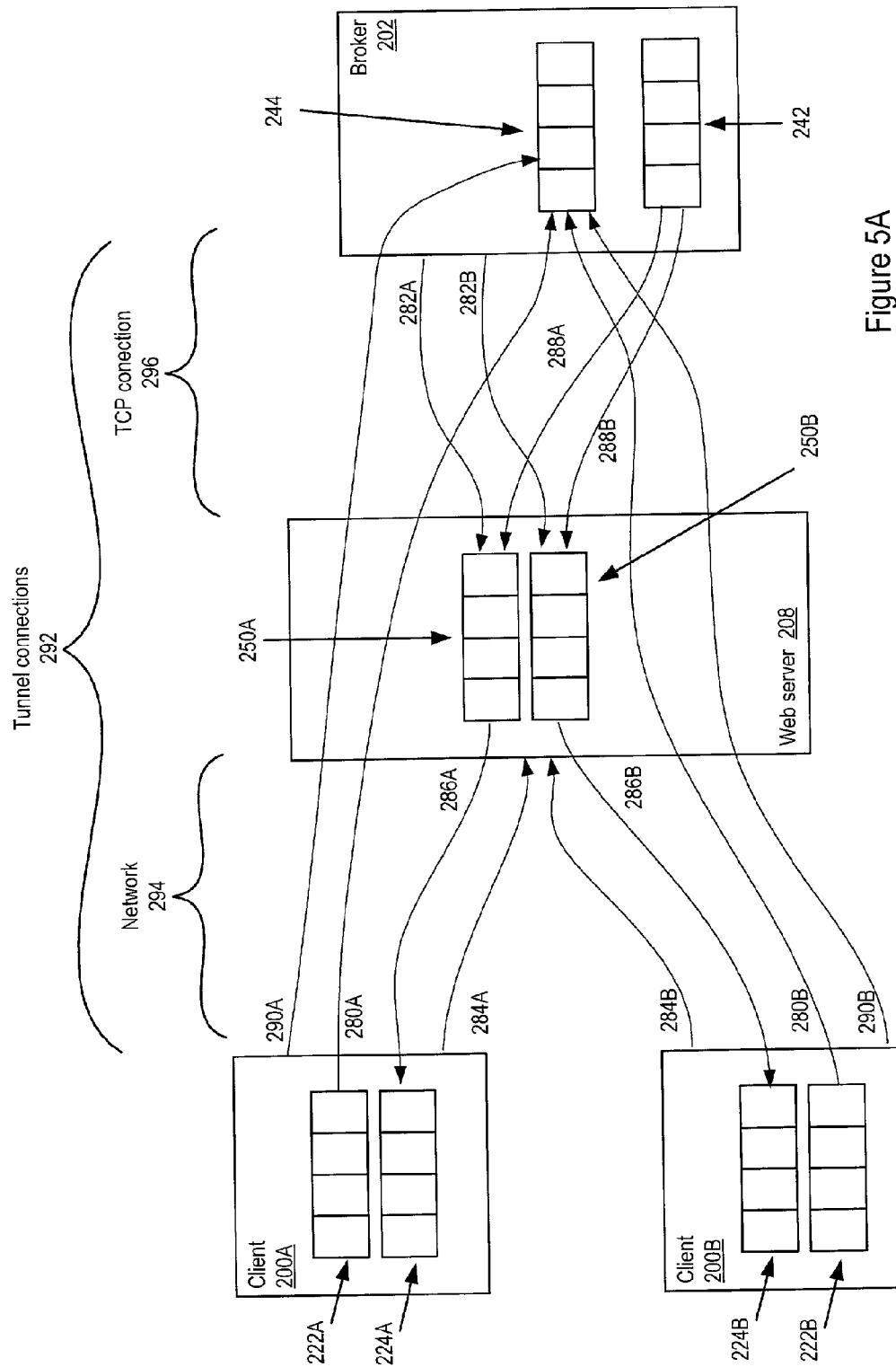


Figure 5A

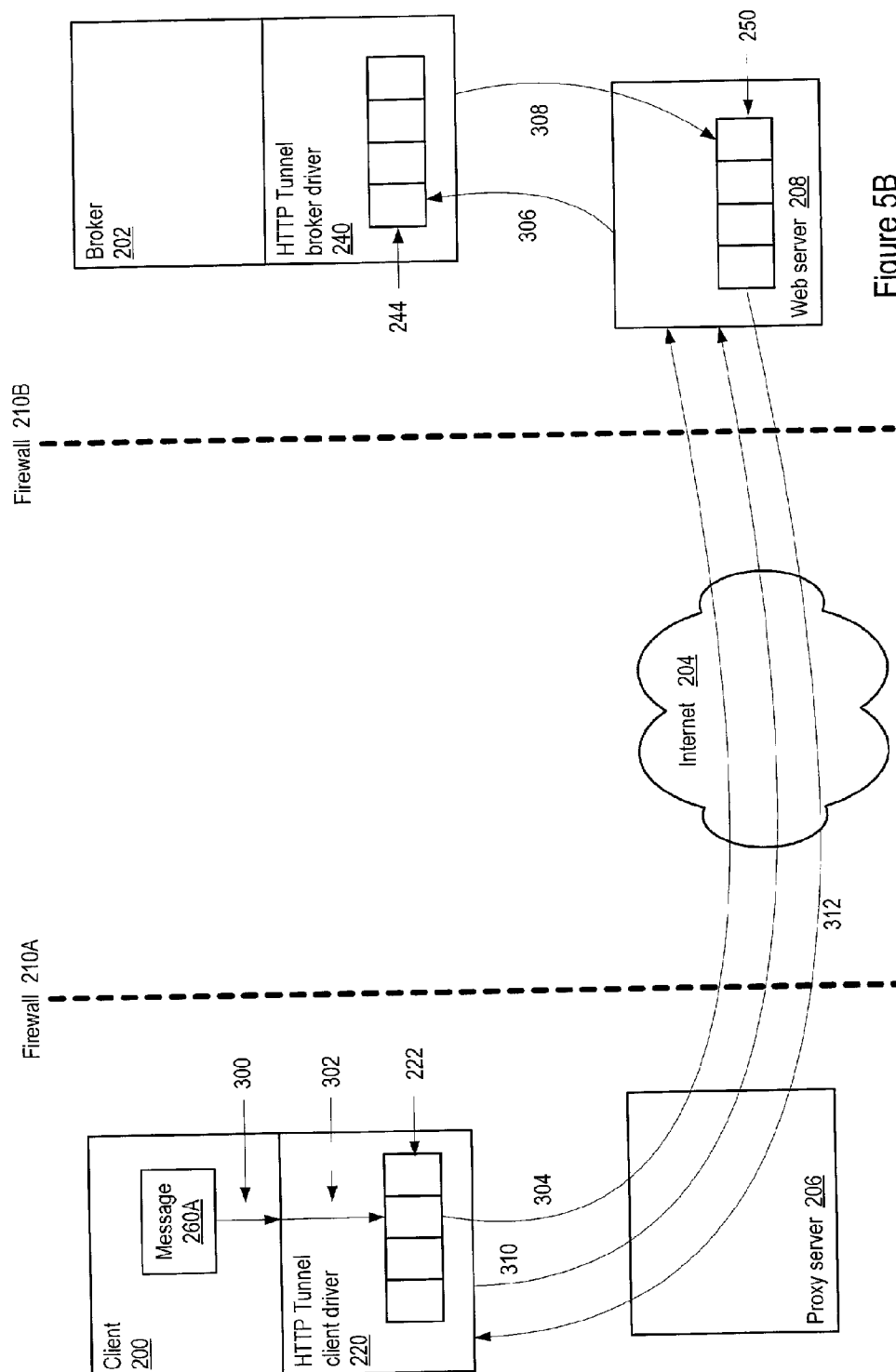


Figure 5B

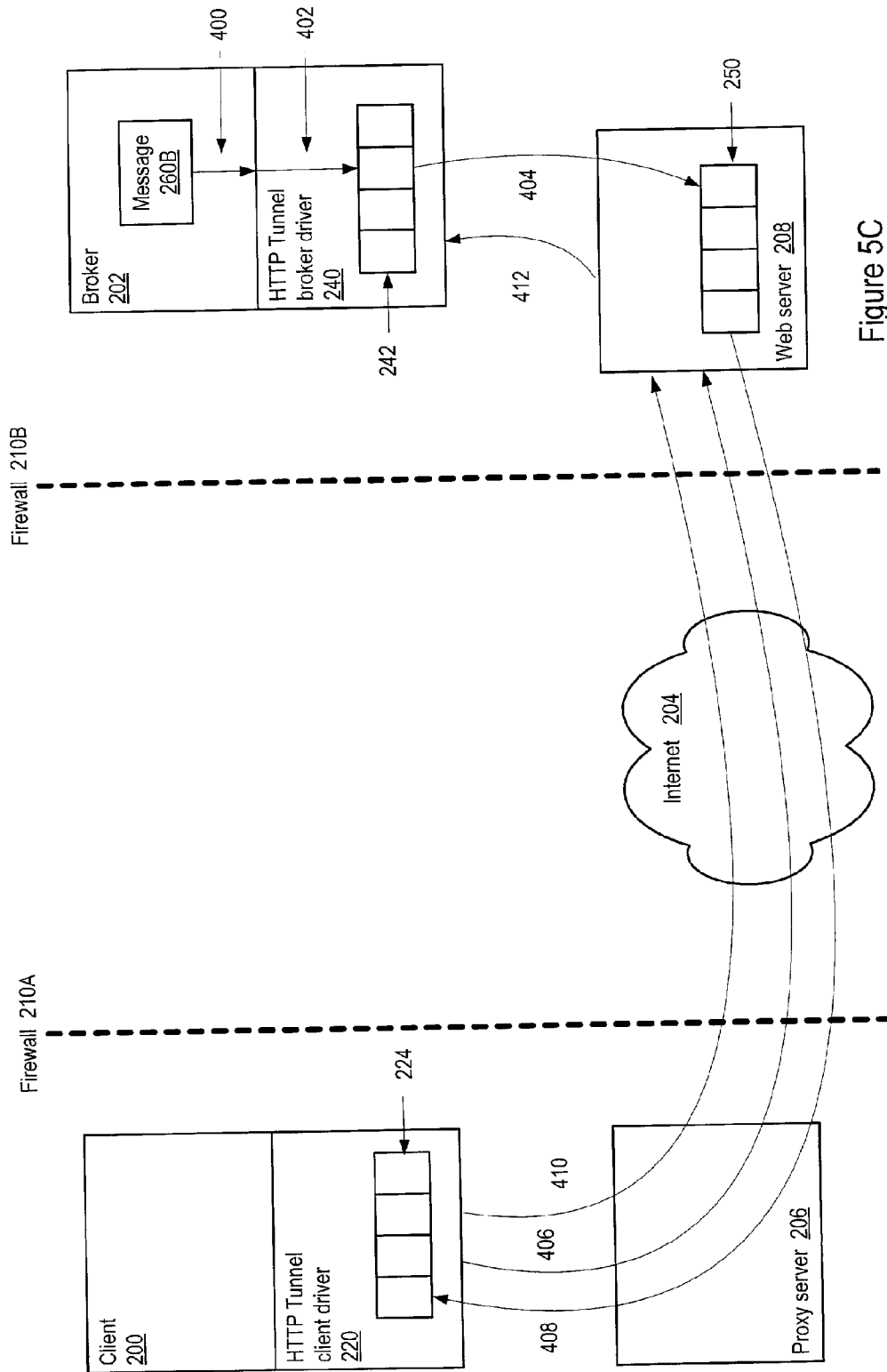


Figure 5C

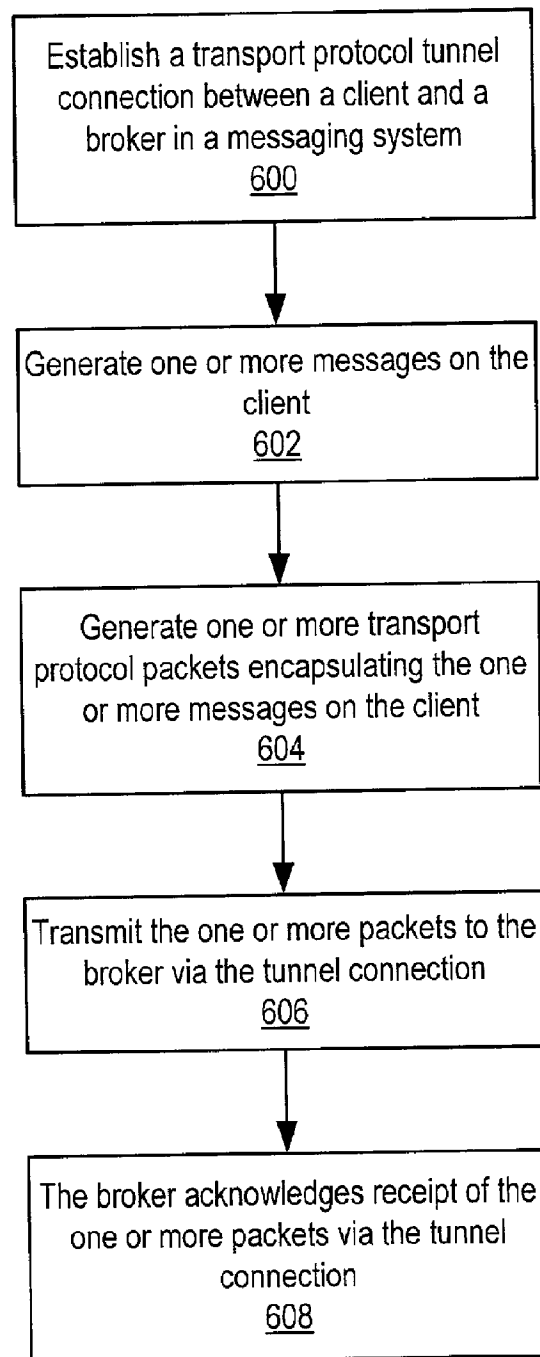


Figure 6A

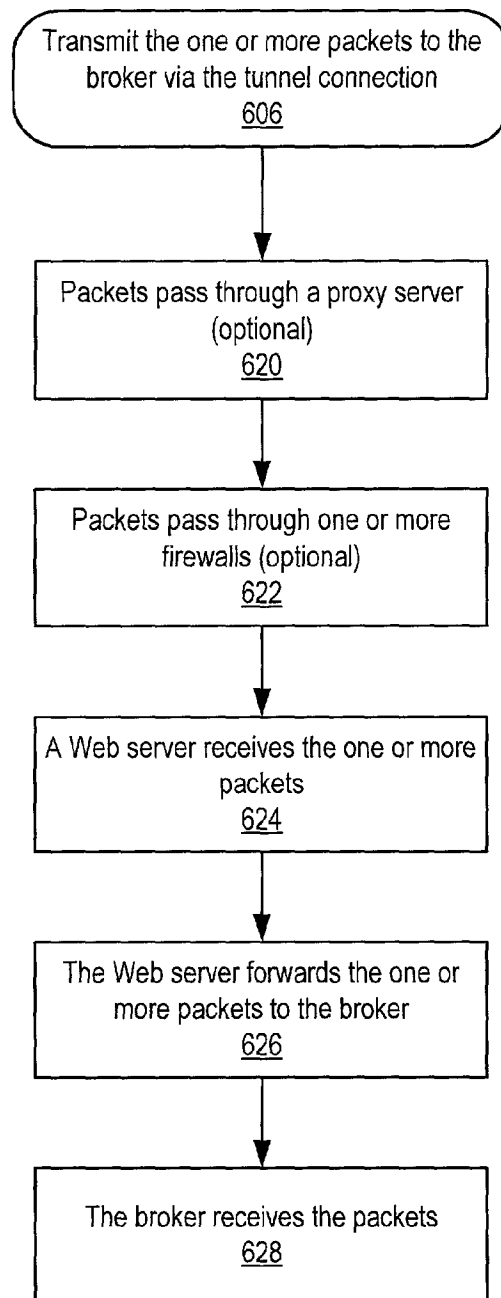


Figure 6B

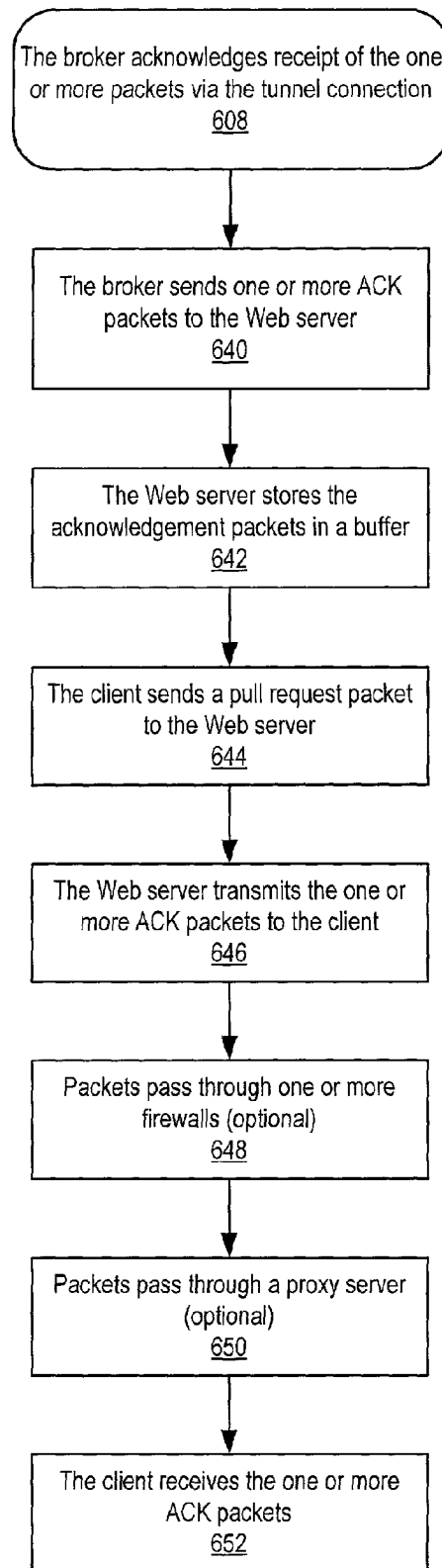


Figure 6C

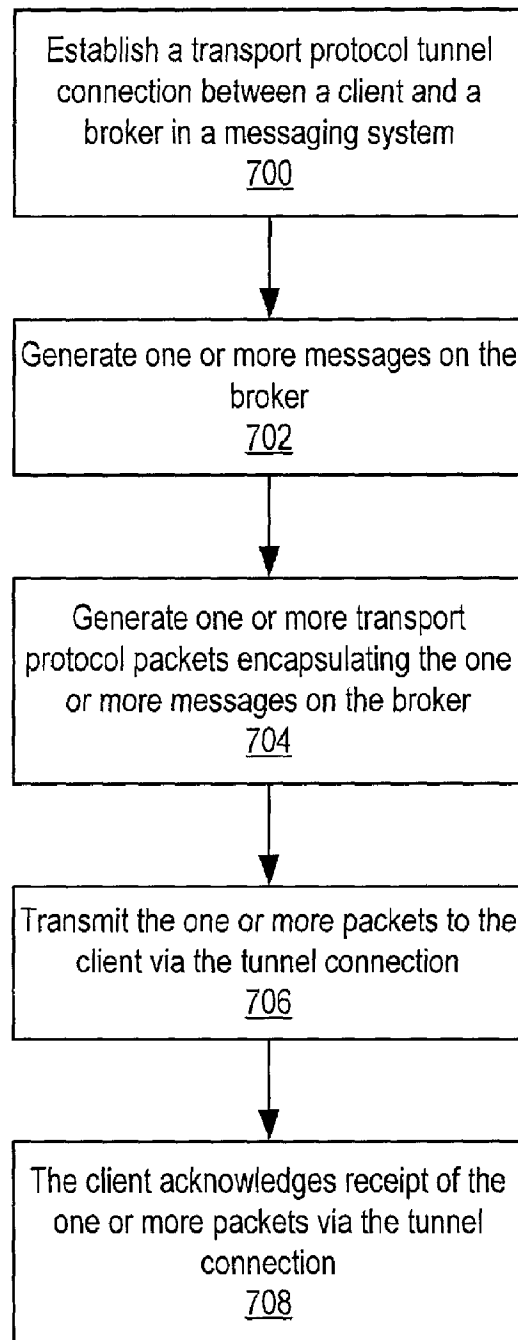


Figure 7A

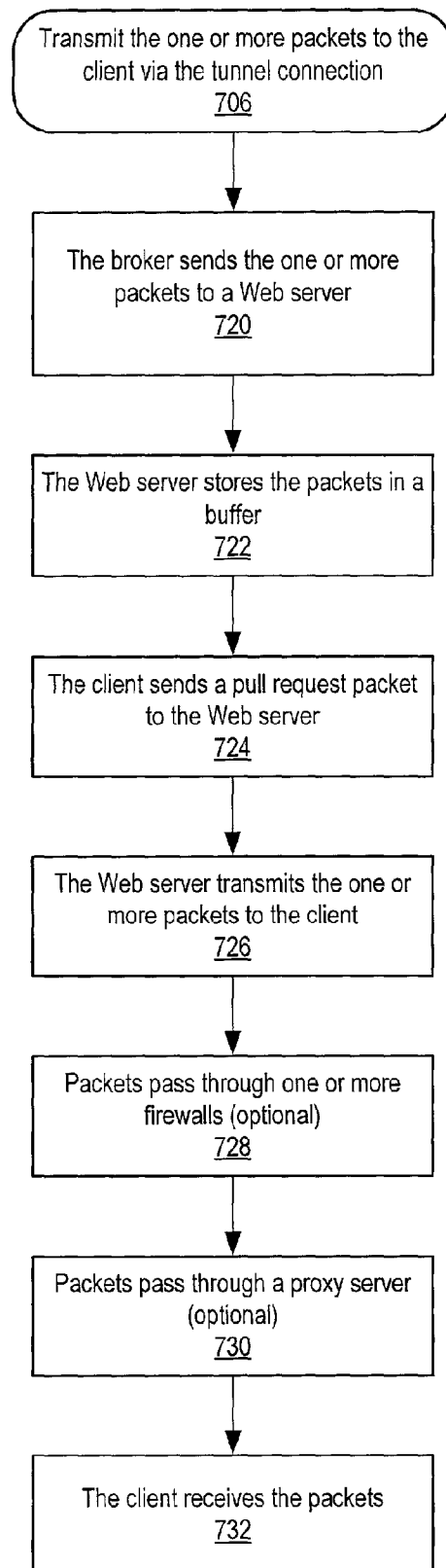


Figure 7B

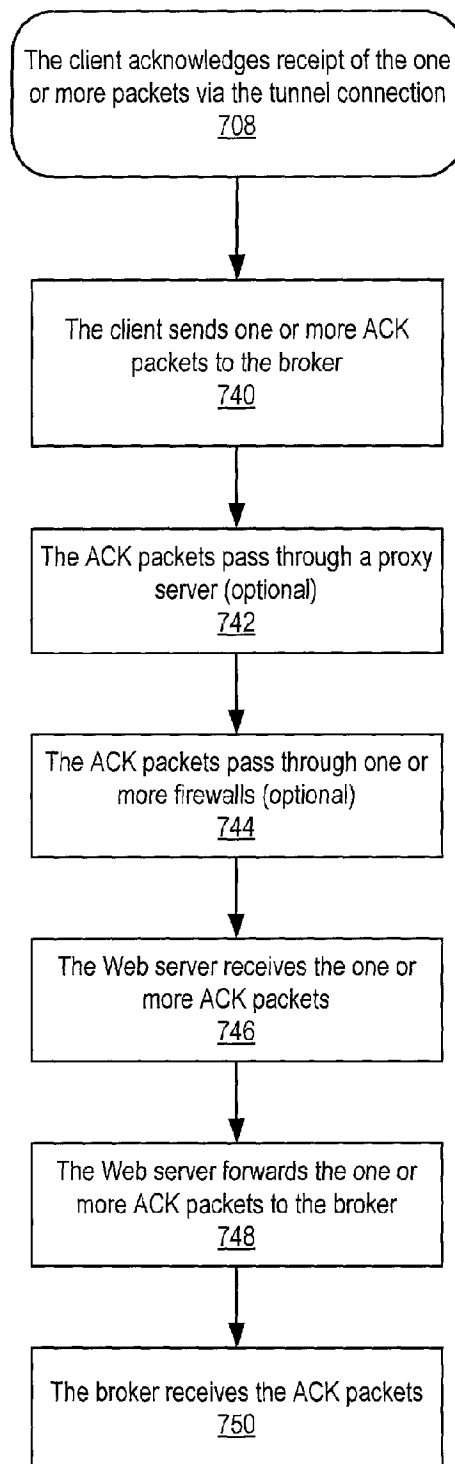


Figure 7C

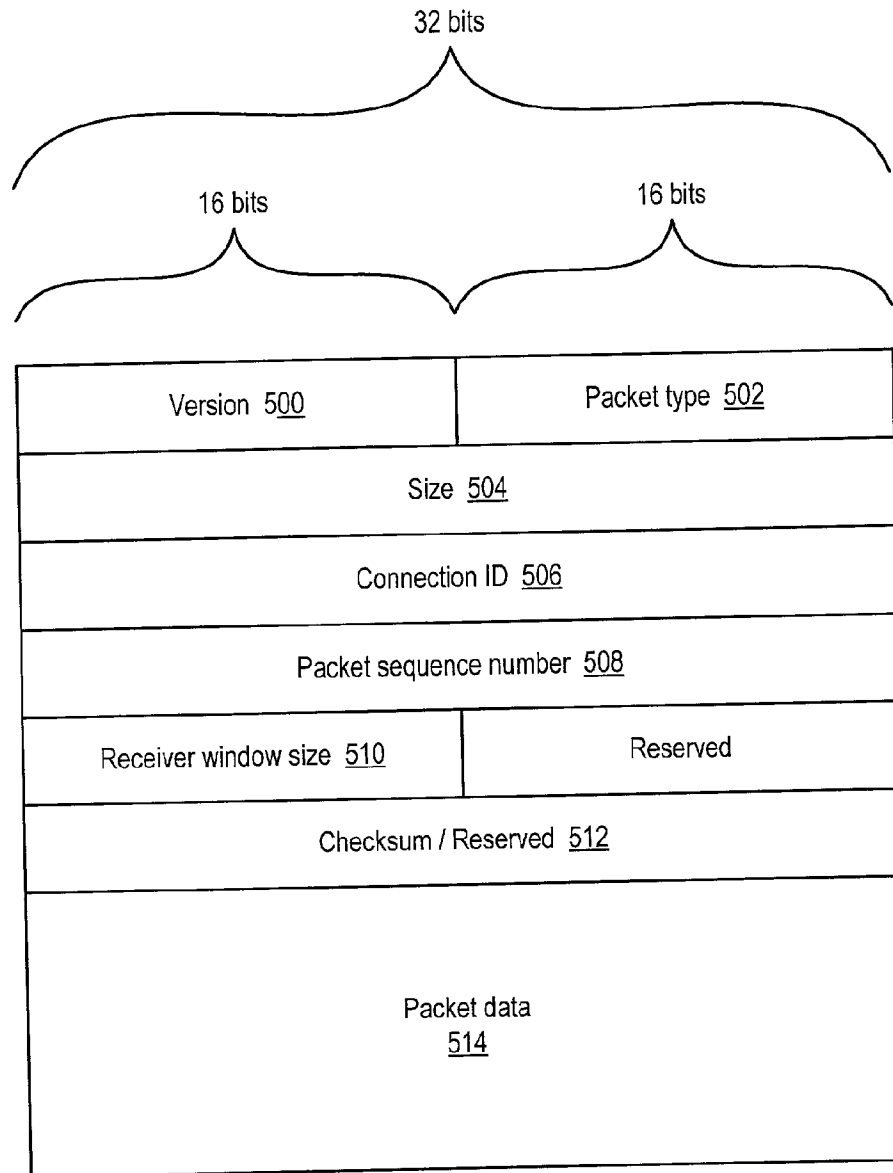


Figure 8

Exemplary tunneling packet format

SYSTEM AND METHOD FOR PROVIDING TUNNEL CONNECTIONS BETWEEN ENTITIES IN A MESSAGING SYSTEM

BACKGROUND OF THE INVENTION

[0001] 1. Field of the Invention

[0002] This invention relates to computers and networks of computers, and more particularly to a system and method for providing transport protocol tunnel connections between entities or nodes such as clients and servers in a messaging system.

[0003] 2. Description of the Related Art

[0004] Messaging is playing an increasingly important role in computing. Its advantages are a natural result of several factors: the trend toward peer-to-peer computing, greater platform heterogeneity, and greater modularity, coupled with the trend away from synchronous communication between processes. The common building block of a messaging service is the message. Messages are specially formatted data describing events, requests, and replies that are created by and delivered to computer programs. Messages contain formatted data with specific meanings. Messaging is the exchange of messages to a messaging server, which acts as a message exchange program for client programs. A messaging server is a middleware program that handles messages that are sent by client programs for use by other programs. Typically, client programs access the functionality of the messaging system using a messaging application program interface (application program interface). A messaging server can usually queue and prioritize messages as needed, and thus saves each of the client programs from having to perform these services. Rather than communicate directly with each other, the components in an application based around a message service send messages to a message server. The message server, in turn, delivers the messages to the specified recipients

[0005] There are two major messaging system models: the point-to-point model and the publish and subscribe model. Messaging allows programs to share common message-handling code, to isolate resources and interdependencies, and to easily handle an increase in message volume. Messaging also makes it easier for programs to communicate across different programming environments (languages, compilers, and operating systems) since the only thing that each environment needs to understand is the common messaging format and protocol. The messages involved exchange crucial data between computers—rather than between users—and contain information such as event notification and service requests. IBM's MQSeries and iPlanet Message Queue are examples of products that provide messaging interfaces and services.

[0006] FIG. 1 illustrates a typical messaging-based application. This application is a modification of the traditional client/server architecture. The major difference is the presence of a messaging server 100A between client 102 and server 104 layers. Thus, rather than communicating directly, clients 102 and servers 104 communicate via the messaging server 100A. The addition of the messaging server 100A adds another layer to the application, but it greatly simplifies the design of both the clients 102 and the servers 104 (they are no longer responsible for handling communications

issues), and it also enhances scalability. Note that servers in a messaging system may also be referred to as "brokers".

[0007] FIG. 2 illustrates another messaging-based application based on point-to-point architecture. This type of application almost demands a centralized messaging server 100B. Without one, each component 106 would be responsible for creating and maintaining connections with the other components 106. A possible alternative approach would be to architect the system around a communication bus, but this would still leave each component 106 in charge of message delivery issues.

[0008] Java Message Service (JMS)

[0009] Java Message Service (JMS) is an application program interface (API) from Sun Microsystems that supports messaging between computers in a network. JMS provides a common interface to standard messaging protocols and also to special messaging services in support of Java programs. Sun advocates the use of the JMS for anyone developing Java applications, which can be run from any major operating system platform. Using the JMS interface, a programmer can invoke the messaging services of IBM's MQSeries, Progress Software's SonicMQ, and other messaging product vendors.

[0010] The JMS API may:

- [0011] Provide a single, unified message API
- [0012] Provide an API suitable for the creation of messages that match the format used by existing, non-JMS applications
- [0013] Support the development of heterogeneous applications that span operating systems, platforms, architectures, and computer languages
- [0014] Support messages that contain serialized Java objects
- [0015] Support messages that contain eXtensible Markup Language (XML) pages
- [0016] Allow messages to be prioritized
- [0017] Deliver messages either synchronously or asynchronously
- [0018] Guarantee messages are delivered once and only once
- [0019] Support message delivery notification
- [0020] Support message time-to-live
- [0021] Support transactions

[0022] The JMS API is divided into two nearly identical pieces. One implements a point-to-point model of messaging, and the other implements a publish and subscribe model of messaging. Each of these models is called a domain. The APIs are almost identical between the domains. The separation of the API into two domains relieves vendors that support only one messaging model from providing facilities their product doesn't natively support.

[0023] Enterprise Messaging Systems

[0024] Enterprise messaging systems may be developed using a messaging service such as JMS. An enterprise messaging system may be used to integrate distributed,

loosely coupled applications/systems in a way that provides for dynamic topologies of cooperating systems/services. Enterprise messaging systems typically need to address common messaging related problems such as:

[0025] Guaranteed message delivery (e.g. persistence, durable interests, "at least once" and "once and only once" message delivery guarantees, transactions etc). Messages from one component to another must not be lost due to network or system failure. This means the system must be able to guarantee that a message is successfully delivered.

[0026] Asynchronous delivery. For large numbers of components to be able to exchange messages simultaneously, and support high density throughputs, the sending of a message cannot depend upon the readiness of the consumer to immediately receive it. If a consumer is busy or offline, the system must allow for a message to be sent and subsequently received when the consumer is ready. This is known as asynchronous message delivery, popularly known as store-and-forward messaging.

[0027] Various message delivery models (e.g. publish and subscribe or point-to-point).

[0028] Transport independence.

[0029] Leveraging an enterprise messaging system in developing business solutions allows developers to focus on their application/business logic rather than on implementing the underlying messaging layer.

[0030] iPlanet E-Commerce Solutions' iMQ (iPlanet Message Queue), formerly offered by Sun Microsystems as JMQ (Java Message Queue) is an example of an enterprise messaging system, and was developed to be JMS-compliant. iMQ may use a "hub and spoke" architecture. Clients use an iMQ client library to exchange messages with an iMQ message server (also referred to as a "broker").

[0031] In an enterprise messaging system, clients exchange messages with a messaging server using a message exchange protocol. The messaging server then may route the messages based upon properties of the messages. Typically, the message exchange protocol requires a direct, fully bi-directional reliable transport connection between the client and the messaging server, such as a TCP (Transport Control Protocol) or SSL (Secure Sockets Layer) connection, which can be used only if the client and the messaging server both reside on the "intranet" (i.e. on the same side of a firewall).

[0032] Hypertext Transfer Protocol

[0033] The Hypertext Transfer Protocol (HTTP) is a set of rules for exchanging files (text, graphic images, sound, video, and other multimedia files) on the World Wide Web. HTTP may also be used on an intranet. Relative to the TCP/IP suite of protocols (which are the basis for information exchange on the Internet), HTTP is an application protocol that is implemented over TCP/IP. HTTP was designed as a stateless request-response mechanism.

[0034] A Web server is a program that, using the client/server model and HTTP, serves the files that form Web pages to Web users (whose computers contain HTTP clients that forward their requests). Every computer on the Internet that

contains a Web site must have a Web server. A Web server machine may include, in addition to the Hypertext Markup Language (HTML) and other files it can serve, an HTTP daemon, a program that is designed to wait for HTTP requests and handle them when they arrive. A Web browser is an example of an HTTP client that sends requests to server machines. When a browser user enters file requests by either "opening" a Web file by typing in a URL (Uniform Resource Locator) or clicking on a hypertext link, the browser builds an HTTP request and sends it to the Internet Protocol (IP) address indicated by the URL. The HTTP daemon in the destination server machine receives the request and, after any necessary processing, the requested file is returned.

[0035] Tunneling

[0036] Tunneling may be defined as the encapsulation of a protocol A within protocol B, such that A treats B as though it were a data link layer. Tunneling may be used to get data between administrative domains that use a protocol that is not supported by the Internet connecting those domains. A "tunnel" is a particular path that a given message or file might travel through the Internet.

[0037] Proxy Servers and Firewalls.

[0038] In an enterprise that uses the Internet, a proxy server is a server that acts as an intermediary between a workstation user and the Internet so that the enterprise can ensure security, administrative control, and caching service. A proxy server may be associated with or part of a gateway server that separates the enterprise network from the outside network and a firewall server that protects the enterprise network from outside intrusion.

[0039] A firewall is a set of related programs, usually located at a network gateway server, that protects the resources of a private network from users from other networks. An enterprise with an intranet that allows its workers access to the wider Internet installs a firewall to prevent outsiders from accessing its own private data resources and for controlling what outside resources its own users have access to.

SUMMARY OF THE INVENTION

[0040] A system and method for providing transport protocol tunnel connections between entities such as clients and servers in a messaging system is described. A transport protocol tunnel connection layer is described that may be used to provide reliable, full duplex virtual connections between entities (e.g. clients and servers) in a distributed application environment using a messaging system. This layer may be used by clients to access messaging servers (referred to as brokers) through proxy servers and firewalls, thus expanding the scope of from where clients can access brokers. This layer allows for information flow in both directions between the client and the server. Using this layer, brokers as well as clients may initiate messages in the distributed application environment. This layer may also provide guaranteed data delivery with correct sequencing even in case of a failure on the network. This layer may also provide end-to-end flow control.

[0041] The transport protocol tunnel connection layer may provide a connection-oriented, bi-directional byte stream service between nodes in a messaging system. Application data, including messages, may be carried as transport pro-

to col packet payloads. The transport protocol tunnel connection layer allows messaging system clients to access messaging system brokers using the transport protocol instead of using direct TCP connections. This enables the clients to access the brokers through firewalls. Also, with the help of a transport protocol proxy, the clients may access the messaging service even when there is no direct IP connectivity with the broker.

[0042] Using embodiments of the transport protocol tunnel connection layer, a transport protocol tunnel connection between the client and the broker in the messaging system may be established. The client may then generate one or more messaging system messages. In one embodiment, the generated messages may then be stored in a client-side transmit buffer. One or more transport protocol packets encapsulating the one or more messages may then be generated on the client. In one embodiment, a client-side tunnel connection driver may generate the packets and include the messages as payloads of the packets. The one or more transport protocol packets may then be transmitted to the broker via the tunnel connection. In one embodiment, the client-side tunnel connection driver may handle the transmission of the packets.

[0043] A Web server may then receive the one or more transport protocol packets. The Web server may then forward the received transport protocol packets to the broker. In one embodiment, the packets may be forwarded to the broker via a TCP connection serving as one segment of the transport protocol tunnel connection between the Web server and the broker. In one embodiment, a transport protocol tunnel servlet on the Web server node may serve as an interface between the Web server and the TCP connection.

[0044] The broker may receive the transport protocol packets from the Web server. In one embodiment, a broker-side transport protocol tunnel driver may receive the packets. In one embodiment, the broker may extract the messaging system messages from the transport protocol packets and store the messages in a broker-side receive buffer. In another embodiment, the entire transport protocol packet may be stored in the broker-side receive buffer.

[0045] The broker may acknowledge receipt of the packets by sending one or more acknowledgement (ACK) packets to the client via the tunnel connection. The broker may generate and send one or more acknowledgement (ACK) packets to the Web server. In one embodiment, the broker may store ACK packets in a broker-side transmit buffer. In one embodiment, the ACK packets may be sent to the Web server over the TCP connection. In one embodiment, the broker-side transport protocol tunnel driver may handle the transmission of the ACK packets to the Web server.

[0046] The Web server may then receive the ACK packets. In one embodiment, a transport protocol tunnel servlet may receive the packets for the Web server. The Web server may store the acknowledgement packets in a transport protocol packet buffer. At some point, the client may send a transport protocol pull request packet to the Web server. In one embodiment, the client may periodically send pull requests to the Web server. In one embodiment, a separate thread on the client may handle periodically sending pull requests. The Web server may transmit to the client the one or more transport protocol ACK packets stored in the transport protocol packet buffer associated with the client in response

to receiving the pull request packet. The client may then receive the one or more ACK packets. The ACK packets may serve to acknowledge the receipt of the transmitted data so that the sender may free its transmit buffers.

[0047] Using embodiments of the transport protocol tunnel connection layer, messaging system messages may be generated on a broker and sent to a client. In one embodiment, the generated messages may be stored in a broker-side transmit buffer. One or more transport protocol packets encapsulating the one or more messages may then be generated on the broker. In one embodiment, a broker-side transport protocol tunnel connection driver may generate the transport protocol packets and include the messages as payloads of the packets. The one or more transport protocol packets may then be transmitted to the client via the transport protocol tunnel connection. In one embodiment, the broker-side transport protocol tunnel connection driver may handle the transmission of the packets. In one embodiment, the transport protocol packets may be sent to a Web server. In one embodiment, the transport protocol packets may be sent to the Web server over a TCP connection.

[0048] The Web server may receive the transport protocol packets and store the received packets in a transport protocol packet buffer. In one embodiment, a transport protocol tunnel servlet may receive the packets for the Web server. At some point, the client may send a transport protocol pull request packet to the Web server. The Web server may transmit to the client one or more transport protocol packets stored in the transport protocol packet buffer associated with the client in response to receiving the pull request packet.

[0049] The client may then receive the one or more transport protocol packets. In one embodiment, the client may store the received transport protocol packets in a client-side receive buffer. After receiving the transport protocol packets, the client may acknowledge receipt of the packets by sending one or more acknowledgement (ACK) packets to the broker via the transport protocol tunnel connection. The Web server may receive the ACK packets and forward the received ACK packets to the broker. In one embodiment, the ACK packets may be transmitted to the broker via a TCP connection between the Web server and the broker that serves as one segment of the HTTP tunnel connection. The broker may receive the ACK packets from the Web server. In one embodiment, the received ACK packets may be stored in a broker-side receive buffer.

[0050] In one embodiment, one Web server and one tunnel servlet may be used by two or more clients to communicate to a broker via tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex transport protocol packets from the two or more clients onto the TCP connection. In one embodiment, the tunnel servlet may extract the messaging system message information from received transport protocol packets and send only the message information to the broker over the TCP connection. In one embodiment, there may be one broker-side receive buffer for each tunnel connection. In another embodiment, a single receive buffer may be used for two or more tunnel connections.

[0051] Transport protocol packets may optionally pass through a proxy server and one or more firewalls. For example, transport protocol packet flow from a client to a broker may pass through a proxy server, through a firewall onto the Internet, through another firewall to a Web server,

and from the Web server over a TCP connection to the broker. Packets flowing in the opposite direction (from the broker to the client) take the reverse path.

[0052] In one embodiment, transport protocol packets transmitted on the tunnel connection may include message sequence information configured for use by the receiver in processing received messages in the correct sequence. In one embodiment, flow control may be applied to the sending of messages from a sender to a receiver. In one embodiment, the receiver may inform the sender of available space in a receive buffer to store incoming messages. In one embodiment, upon establishment of a tunnel connection, each side (both clients and brokers can be senders and/or receivers) may inform the other of its receive buffer size. In one embodiment, ACK packets sent to a sender by a receiver may each include the currently available space in the receive buffer. Thus, the sender can keep track of the current receive capacity of the receiver.

BRIEF DESCRIPTION OF THE DRAWINGS

[0053] FIG. 1 illustrates a prior art messaging-based application based upon client/server architecture;

[0054] FIG. 2 illustrates a prior art messaging-based application based on point-to-point architecture;

[0055] FIG. 3A illustrates a client-server messaging system implementing a transport protocol tunnel connection layer according to one embodiment;

[0056] FIG. 3B illustrates a client-server messaging system implementing a transport protocol tunnel connection layer with multiple clients accessing a broker through a Web server according to one embodiment;

[0057] FIG. 4 illustrates the architecture of a client-server messaging system implementing a transport protocol tunnel connection layer according to one embodiment;

[0058] FIG. 5A illustrates the routing of transport protocol packets between clients and a broker on transport protocol tunnel connections according to one embodiment;

[0059] FIG. 5B illustrates the process of sending a message from a client to a broker via a transport protocol tunnel connection according to one embodiment;

[0060] FIG. 5C illustrates the process of sending a message from a broker to a client via a transport protocol tunnel connection according to one embodiment;

[0061] FIGS. 6A is a flowchart of a method for sending messages from a messaging system client to a messaging system broker over a transport protocol tunnel connection layer according to one embodiment; FIG. 6B is a flowchart of a method for transmitting one or more packets from a client to a broker via a transport protocol tunnel connection according to one embodiment;

[0062] FIG. 6C is a flowchart of a method for a broker to acknowledge to a client the receipt of transport protocol packets via the transport protocol tunnel connection according to one embodiment;

[0063] FIG. 7A is a flowchart of a method for sending messages from a messaging system client to a messaging system broker over a transport protocol tunnel connection layer according to one embodiment;

[0064] FIG. 7B is a flowchart of a method for transmitting one or more packets from a broker to a client via a transport protocol tunnel connection according to one embodiment;

[0065] FIG. 7C is a flowchart of a method for a client to acknowledge to a broker the receipt of transport protocol packets via a transport protocol tunnel connection according to one embodiment; and

[0066] FIG. 8 illustrates an exemplary transport protocol packet format that may be used in the transport protocol tunnel connection layer according to one embodiment.

[0067] While the invention is described herein by way of example for several embodiments and illustrative drawings, those skilled in the art will recognize that the invention is not limited to the embodiments or drawings described. It should be understood, that the drawings and detailed description thereto are not intended to limit the invention to the particular form disclosed, but on the contrary, the intention is to cover all modifications, equivalents and alternatives falling within the spirit and scope of the present invention as defined by the appended claims. The headings used herein are for organizational purposes only and are not meant to be used to limit the scope of the description or the claims. As used throughout this application, the word "may" is used in a permissive sense (i.e., meaning having the potential to), rather than the mandatory sense (i.e., meaning must). Similarly, the words "include", "including", and "includes" mean including, but not limited to.

DETAILED DESCRIPTION OF EMBODIMENTS OF THE INVENTION

[0068] A system and method for providing transport protocol tunnel connections between entities such as clients and servers in a messaging system is described. A transport protocol tunnel connection layer is described that may be used to provide reliable, full duplex virtual connections between entities (e.g. clients and servers) in a distributed application environment using a messaging system. This layer may be used by clients to access messaging servers (referred to as brokers) through proxy servers and firewalls, thus expanding the scope of from where clients can access brokers. Using this layer, brokers as well as clients may initiate messages in the distributed application environment. This layer may also provide guaranteed data delivery with correct sequencing even in case of a failure on the network. This layer may also provide end-to-end flow control. The transport protocol tunnel connection layer may be used to simulate virtual connections that have a similar contract with the upper layers (e.g. clients and brokers) as a TCP connection. Thus, applications can be developed in terms of messages without concern for the particular underlying connection protocol. Decisions about the best communications protocol between clients and brokers may be postponed until deployment time when the particular network requirements of an installation are known.

[0069] The transport protocol tunnel connection layer may use a novel tunneling protocol to overcome limitations of the underlying transport protocol in the messaging environment. A transport protocol may be designed as a stateless request-response mechanism, and thus may not fit the enterprise messaging system protocol model very well. For example, enterprise messaging system applications may expect asynchronous message delivery whereas a transport protocol

may use a synchronous request response model. As another example, each transport protocol request-response exchange may carry a finite amount of data and is usually short lived. Thus, an enterprise messaging system message may be delivered using multiple transport protocol requests. However there may be no correlation between transport protocol requests generated by the same client. The Web servers and transport protocol intermediaries (e.g. proxy servers) thus cannot guarantee that the transport protocol requests will be processed in the same sequence as they were sent. As yet another example, TCP protocol uses a flow control mechanism to limit the network resource usage. If an enterprise messaging system message sender application generates messages very rapidly, and if each message is sent to the server using a separate transport protocol request or multiple transport protocol requests, resources on the transport protocol servers and intermediaries may be exhausted. As still yet another example, an enterprise messaging system client application may maintain a connection and a steady message exchange rate over very long periods of time (many days or even months). If the transport protocol is used, a failure on a common transport protocol proxy server may disrupt the communication between the client application and the enterprise messaging system broker.

[0070] The transport protocol tunnel connection layer may provide a connection-oriented, bi-directional byte stream service between nodes in a messaging system. Transport protocol messages may be carried as transport protocol packet payloads. The transport protocol tunnel connection layer may allow messaging system clients to access messaging system brokers using the transport protocol instead of using direct TCP connections. This enables the clients to access the brokers through firewalls. Also, with the help of a transport protocol proxy, the clients may access the messaging service even when there is no direct IP connectivity with the broker.

[0071] Using the transport protocol tunnel connection layer, if a client is separated from a broker by a firewall, messaging may be run on top of transport protocol connections, which are normally allowed through firewalls. On the client side, a transport protocol transport driver may encapsulate messages into transport protocol packets, and also may ensure that these packets are sent to the Web server in the correct sequence. The client may use a transport protocol proxy server to communicate with the broker if necessary. In one embodiment, a transport protocol tunnel servlet executing within a Web server may receive the transport protocol packets and forward the entire transport protocol packets (including the message data) to the broker. In another embodiment, the transport protocol tunnel servlet executing within the Web server may be used to pull client data (messages) out of the transport protocol packets before forwarding the data to the broker. In one embodiment, the tunnel servlet may multiplex message data from multiple clients onto one TCP connection to the broker, thus allowing the use of one tunnel servlet for multiple clients. The transport protocol tunnel servlet may also send broker data (messages) to the client in response to transport protocol pull requests. On the broker side, a transport protocol transport driver may unwrap and demultiplex incoming messages from the transport protocol tunnel servlet. The transport protocol tunnel connection layer may also be used by brokers to initiate communications with a client.

[0072] Though embodiments of the system and method are described herein as providing Hypertext Transport Protocol (IITTP) tunnel connections between entities such as clients and servers in a messaging system, it is noted that embodiments of the system and method using other unreliable/connectionless transport protocols that may not have built-in TCP support such as UDP (User Datagram Protocol), IrDA (Infrared Data Association), IBM's SNA (Systems Network Architecture), Novell's IPX (Internetwork Packet eXchange), and Bluetooth are contemplated. These embodiments may be used to provide tunnel connections between entities in messaging systems using the other transport protocols.

[0073] FIG. 3A illustrates a client-server messaging system implementing an HTTP tunnel connection layer according to one embodiment. Client 200 may generate messages using the messaging protocol 212. In one embodiment, an Application Programming Interface (API) to the messaging protocol may be used by the client application to generate the messages. In one embodiment, the messaging protocol is the Java Message Service (JMS). Other messaging protocols may be used. Generated messages may then be passed to the HTTP tunnel client driver 220.

[0074] The HTTP tunnel client driver 220 may then send the messages as HTTP POST request payloads. The HTTP tunnel client driver 220 may also use separate HTTP requests to periodically pull any data sent by the other end of the connection. The HTTP requests may be sent through HTTP proxy 206, Internet 204, and firewall 210 to Web server 208. On Web server 208, the IITTP tunnel servlet 214 may act as a transceiver and may multiplex the HTTP requests from multiple clients onto a single TCP connection 216 with the broker 202. The HTTP tunnel broker driver 240 may receive the HTTP requests from the Web server 210 over TCP connection 216.

[0075] Note that the IITTP proxy 206 and/or the firewall 210 are optional. In other words, the HTTP tunnel connection layer is configurable to transmit messages encapsulated in HTTP requests between entities over the Internet 104 both with and without the messages passing through proxies and/or firewalls. Also note that the Web server 208, HTTP tunnel servlet 214, and the broker 202 may be implemented on the same host machine or on different host machines. Note also that a Web server 208 and HTTP tunnel servlet 214 may be used to access multiple brokers 202.

[0076] In one embodiment, the packet delivery service provided by the HTTP tunnel drivers may occasionally lose packets. Hence the HTTP tunnel connection layer may use positive acknowledgements of received packets, and may retransmit any lost packets. When a receiver receives a packet including a message, the receiver responds to the packet by sending an acknowledgement packet to the sender.

[0077] In one embodiment, the HTTP tunnel connection layer may use a sliding window protocol to implement packet sequencing and flow control on top of HTTP. In a distributed application environment using a messaging service, quite often entities may need to send a stream of packets, without errors, and with guaranteed order of delivery (i.e. that the packets are received in the order they are sent). HTTP does not guarantee packets to be received by a receiver (e.g. broker) in the same order the packets were sent by a transmitter (e.g. client). Also, HTTP does not provide

a method to control the rate at which packets are sent to a receiver, thus running the risk of exhausting network resources on the receiver and losing packets. Using a sliding window protocol provides the ability to control the rate at which packets are transmitted to a receiver. The sliding window protocol may be used to guarantee that no more than a fixed number of packets are transmitted to a receiver. The fixed number of packets may be determined by a receive buffer size on the receiver. For example, a receiver may be able to receive a maximum of 100 packets from a sender. If the sender initially transmits 70 packets, the receiver may receive the packets and process 20 of them. The receiver may send a packet or packets to notify the sender that the receiver can receive 50 packets. The sender may then transmit 30 more packets. The receiver may receive the 30 packets, and in the meantime may have processed 20 more of the original 70 packets. The receiver may then transmit a packet or packets to notify the sender that the receiver can receive 60 packets (there are still 10 of the original 70 packets and the 30 new packets in the receive buffer). Thus, the sender never sends more packets to the receiver than the quantity of packets the receiver has notified the sender it can receive.

[0078] In one embodiment, when a connection is established between two entities or nodes (e.g. a server and client), each node may inform the other of how many packets it can initially receive. In a network, a node is a connection point, either a redistribution point or an endpoint for data transmissions. In general, a node has programmed or engineered capability to recognize, process and/or forward transmissions to other nodes. In one embodiment, each packet received by the receiver may be acknowledged with a packet sent to the sender. The acknowledgement packets may each include information indicating the current receive buffer size (i.e. the number of packets that the receiver can currently receive). Thus, the sender can determine the number of packets that it can send to the receiver without overwhelming the sender.

[0079] In one embodiment, the client 200, broker 202 and the messaging protocol layers 212 may function similarly whether the underlying transport protocol is TCP or HTTP. In one embodiment, the messaging protocol layers 212 on both the client and the broker may use the same basic design and threading model for TCP and HTTP support. In one embodiment, an enterprise messaging system using the HTTP tunneling protocol may allow a messaging system application to exchange messages using the TCP, HTTP, SSL, or other protocol by changing appropriate configuration parameters at runtime. Thus, the application developer may not have to write any transport specific code. A client library and the broker 202 may handle the transport-specific details.

[0080] FIG. 3B illustrates a client-server messaging system implementing the HTTP tunnel connection layer with multiple clients accessing a broker through a Web server according to one embodiment. Both brokers 202A and 202B may have registered with Web server 208 that they are ready to receive connections from clients. Client 200A may establish an HTTP tunnel connection to broker 202A through Web server 208. Client 200B may establish an HTTP tunnel connection to broker 202B through Web server 208. At some point, either client may establish an HTTP tunnel connection with the other broker. Thus, a client may have multiple

HTTP tunnel connections open to different brokers, and multiple clients may have HTTP tunnel connections open to one broker.

[0081] FIG. 4 illustrates the architecture of a client-server messaging system implementing the HTTP tunnel connection layer according to one embodiment. Various components that are comprised in the network protocol stack for the HTTP tunnel connection layer are shown. These components lie between the application (client or broker) and the HTTP tunnel driver (client or broker). These components may include an HTTP tunnel input stream/HTTP tunnel output stream 270, an HTTP tunnel socket 272, and an HTTP tunnel connection 274. In one embodiment, these components may be implemented as classes. In one embodiment, these components may be implemented as Java classes.

[0082] The HTTP tunnel drivers may send one request or receive one packet at a time. The primary responsibility of these drivers is to make sure that single packets are sent and/or received. This driver may not be aware of or be involved directly in the ordering, flow control or acknowledgement of packets.

[0083] The HTTP tunnel connection component 274 may interpret received packets. This component may be responsible for the sliding window protocol implementation. This component may be responsible for buffering the packets, may implement flow control, reordering and other aspects of the HTTP tunneling protocol. This component may be the primary component that is used to implement the end-to-end HTTP tunnel "virtual" connection as described herein.

[0084] The HTTP tunnel socket 272 and input and output streams 270 provide an interface between the application (e.g. client or broker) and the HTTP tunnel connection 274. These components may include simple, atomic methods such as read, write and open connection methods that provide an abstract interface to the HTTP tunnel connection 274 for the applications, and thus may hide the HTTP tunnel connection implementation from the applications.

[0085] HTTP tunnel server socket 276 may be used by broker 202 to open a listening socket to the Web server 208 to allow the Web server to create a listening endpoint for the broker 202. In doing so, broker 202 is establishing that it is ready to accept HTTP tunnel connections through Web server 208. Thus, when client 200 desires to open an HTTP tunnel connection to broker 202, the client may contact Web server 208 with a packet including information identifying broker 202. Web server 208 may examine the packet and forward the packet to broker 202, where an HTTP tunnel connection to client 200 may be established. Note that one or more HTTP packet buffers may be allocated on Web server 208 for the newly established HTTP tunnel connection. Thus, a client 200 initiates a connection, and a broker 202 accepts the connection. In one embodiment, brokers 202 cannot initiate connections to clients. Therefore, once an HTTP tunnel connection between a client 200 and a broker 202 is open (initiated by the client 200), the client 200 may keep the connection open so that if the broker 202 has data to send to the client, there is a communications link established for the broker to send messages to the client on. In one embodiment, the broker 202 never sends HTTP packets directly to the client 200; the packets are buffered on Web server 208, and pulled from the Web server periodically by the client 200.

[0086] FIGS. 5A through 5C are data flow diagrams illustrating the operation of a client-broker messaging system implementing the IITTP tunnel connection layer according to one embodiment. FIG. 5A illustrates the routing of HTTP packets between clients 200 and a broker 202 on HTTP tunnel connections 292 according to one embodiment. Each client 200 may include at least one client-side transmit buffer 222 and at least one client-side receive buffer 224. Broker 202 may include at least one broker-side receive buffer 244 and at least one broker-side transmit buffer 242. Each client 200 may establish an HTTP tunnel connection 292 to broker 202, which may pass through network 294, through Web server 208, and over a TCP connection 296 to broker 202. There may be a single TCP connection 296 between Web server 208, or alternatively a TCP connection 296 may be established for each IITTP tunnel connection 292. In passing through network 294, an HTTP tunnel connection 292 may pass through a proxy server (not shown) and/or through one or more firewalls (not shown).

[0087] Clients 200 may generate messaging system messages, which may be buffered in a client-side transmit buffer 222. Buffering message data may allow messages to be retransmitted if necessary, for example. The clients 200 may generate HTTP packets that include the message data as payloads and transmit the HTTP message packets to broker 202 via the HTTP tunnel connections 292 as indicated at 280A and 280B. Web server 208 may receive the IITTP message packets from network 294 and forward the packets to broker 202 over a TCP connection 296.

[0088] Broker 202 may buffer incoming messages in a broker-side receive buffer 244. Broker 202 may generate an acknowledgment (ACK) HTTP packet to acknowledge the receipt of each HTTP packet successfully received from a client 200, and send the ACK packets to Web server 208 over a TCP connection 296 as indicated at 282A and 282B. Web server 208 may buffer the ACK packets received from broker 202 in buffers 250. In one embodiment, there may be a buffer 250 for each HTTP tunnel connection 292; in other words, each connection 292 may use a separate instance of buffer 250. In another embodiment, one buffer 250 may be shared among two or more HTTP tunnel connections 292.

[0089] Using the HTTP tunneling protocol layer, a broker 202 as well as clients 200 may initiate messaging system messages. Messages generated by broker 202 may be buffered in a broker-side transmit buffer 242. Buffering message data may allow messages to be retransmitted if necessary, for example. The broker 202 may generate HTTP packets that include the message data as payloads and transmit the HTTP packets to Web server 208 over a TCP connection 296 as indicated at 288A and 288B. Web server 208 may buffer the HTTP message packets received from broker 202 in buffers 250.

[0090] As indicated at 284A and 284B, each client 200 may send an HTTP request packet to Web server 208 to indicate that the client 200 is ready to receive HTTP packets buffered in a buffer 250 for the client 200. In one embodiment, each client may periodically send HTTP request packets to retrieve buffered HTTP packets from Web server 208. In one embodiment, a separate thread on a client 200 may be responsible for periodically sending the HTTP request packets.

[0091] After Web server 208 receives an HTTP request packet from a client 200 as indicated at 284, the Web server

208 may respond by sending the requesting client 200 one or more HTTP packets currently buffered in a buffer 250 for the client 200. The IITTP packets may include ACK packets as sent at 282 and/or HTTP message packets as sent at 288. Upon receiving HTTP packets from the Web server 208, a client 200 may store the received packets in a client-side receive buffer 224 to await processing. A client 200 may also generate an ACK packet and send them to broker 202 over the HTTP tunnel connection, as indicated at 290A and 290B, in response to each HTTP message packet received.

[0092] FIG. 5B illustrates the process of sending a message from a client 200 to a broker 202 via an HTTP tunnel connection according to one embodiment. At 300, the client 200 may generate a message 260A. At 302, the client side HTTP tunneling driver 220 may receive the message 260A and buffer the outgoing message data in a transmit buffer 222, which may allow the message data to be retransmitted if necessary. The client side HTTP tunneling driver 220 generates an HTTP POST request with the message data as payload as indicated at 304. This HTTP request may travel over the Internet. The client 200 may be configured to send HTTP requests via a proxy server 206 and through one or more firewalls 210 if necessary.

[0093] A Web server 208 may receive the HTTP request with the message data, and forward the HTTP request to the server side HTTP tunneling driver 240 over a TCP connection as indicated at 306. The server side HTTP tunneling driver 240 may store the received message data in a receive buffer 244. The packet header of the HTTP request may include a sequence number for use in preserving message order when multiple messages are transmitted. The message data may remain in receive buffer 244 until the broker 202 consumes it.

[0094] The server side HTTP tunneling driver may generate an acknowledgement (ACK) HTTP packet to indicate successful receipt of the HTTP request packet and message data. The ACK packet may include information about how much space is left in the receive buffer 244. This information may be used as a "flow control" mechanism to slow down the sender (client) if the receiver (broker) cannot consume the data fast enough. The ACK packet may be sent to the Web server 208 over the TCP connection as indicated at 308. The ACK packet may be stored in packet buffer 250A on the Web server 208 waiting for an HTTP request from the client 200. In one embodiment, the Web server 208 may not initiate communication with the client 200; it can only respond to incoming HTTP requests.

[0095] The client side HTTP tunneling driver 220 then may send an HTTP request packet to the Web server 208 to pull any pending HTTP packets as indicated at 310. In one embodiment, the client side HTTP tunneling driver 220 may use a separate reader thread that continuously sends requests to the Web server 208 to pull any pending HTTP packets. After the Web server 208 receives a pull request for the HTTP packet buffered at 308, the Web server may send the buffered HTTP packet(s) to client 200 in response to the pull request as indicated at 312. The client side IITTP tunneling driver 220 then may process the HTTP packet(s) including the ACK packet, and free the corresponding message data buffered in transmit buffer 222 at 302. In one embodiment, information from the HTTP packet(s) sent to the client 200 may be stored in a client-side receive buffer (not shown) and accessed from the client-side receive buffer for processing.

[0096] FIG. 5C illustrates the process of sending a message from the broker 202 to the client 200 via an HTTP tunnel connection according to one embodiment. At 400, the broker 202 generates a message 260B. At 402, the broker side HTTP tunneling driver 240 may receive the message 260B and buffer the outgoing message data in a transmit buffer 242 so that it can be retransmitted if necessary. The broker side HTTP tunneling driver 240 may generate an HTTP packet with the message data as payload and forward it to Web server 208 over a TCP connection as indicated at 404. The Web server 208 receives the HTTP packet with the message data, and writes the packet to buffer 250. The server side HTTP tunneling driver 240 may send an HTTP request to the Web server 208 to pull any pending packets as indicated at 406. When the Web server 208 receives the pull request, it sends the packet buffered at 404 in response to the pull request as indicated at 408. The client side HTTP tunneling driver 220 may store the received message data in a receive buffer 224. The packet header of the HTTP request may include a sequence number to preserve message order. The message data may remain in receive buffer 224 until the client 200 consumes it.

[0097] The client side HTTP tunneling driver generates an acknowledgement (ACK) HTTP packet to indicate successful receipt of the HTTP request and message data. The ACK packet may also include information about how much space is left in receive buffer 224. This information may be used as a "flow control" mechanism to slow down the sender (broker) if the receiver (client) cannot consume the data fast enough. The ACK packet may be sent to the Web server 208 over the Internet as indicated at 410. Web server 208 may forward the ACK packet to the server side HTTP tunneling driver 240 over a TCP connection as indicated at 412. The server side HTTP tunneling driver 240 then may free the corresponding message data packet(s) buffered in transmit buffer 242 at 402. In one embodiment, information from the ACK packet sent to the broker 202 may be stored in a broker-side receive buffer (not shown) and accessed from the broker-side receive buffer for processing.

[0098] FIGS. 6A-6C are flowcharts illustrating a method of sending messages from a messaging system client to a messaging system broker over an HTTP tunnel connection layer according to one embodiment. In FIG. 6A, a transport protocol tunnel connection between a client and a broker in a messaging system may be established as indicated at 600. As indicated at 602, one or more messaging system messages may be generated on the client. In one embodiment, the generated messages may then be stored in a client-side transmit buffer. One or more transport protocol packets encapsulating the one or more messages may be generated on the client as indicated at 604. In one embodiment, a client-side HTTP tunnel connection driver may generate the HTTP packets and include the messages as payloads of the packets. As indicated at 606, the one or more HTTP packets may then be transmitted to the broker via the HTTP tunnel connection. In one embodiment, the client-side HTTP tunnel connection driver may handle the transmission of the packets.

[0099] In one embodiment, each HTTP packet transmitted on the HTTP tunnel connection may include message sequence information configured for use by the receiver in processing received messages in the correct sequence. This is useful since HTTP and some other transport protocols do

not guarantee delivery of messages in order. In one embodiment, flow control may be applied to the sending of messages from a sender to a receiver. In flow control, before sending new messages, the sender may determine available resources on the receiver to receive new messages, and then transmit no more messages than the receiver can handle based upon the available resources. In one embodiment, the receiver may inform the sender of available space in a receive buffer to store incoming messages awaiting processing. In one embodiment, upon establishment of an HTTP tunnel connection, each side (both clients and brokers can be senders and/or receivers) may inform the other of its receive buffer size.

[0100] As indicated at 608, the broker may receive the HTTP packets and then may acknowledge receipt of the one or more packets by sending one or more acknowledgement (ACK) packets to the client via the HTTP tunnel connection. In one embodiment, the ACK packets may each include the currently available space in the broker-side receive buffer. Thus, the sender (client) can keep track of the current receive capacity of the receiver (broker).

[0101] FIG. 6B expands on 606 of FIG. 6A and illustrates a method of transmitting one or more packets from a client to a broker via an HTTP tunnel connection according to one embodiment. As indicated at 620, the transmitted HTTP packets may optionally pass through a proxy server. As indicated at 622, the transmitted HTTP packets may optionally pass through one or more firewalls. A Web server may then receive the one or more HTTP packets as indicated at 624. For example, the client may transmit the packets to a proxy server, the proxy server may transmit the packets through a firewall onto the Internet, and the packets may be received through another firewall by the Web server.

[0102] The Web server may then forward the received HTTP packets to the broker as indicated at 626. In one embodiment, the packets may be transmitted to the broker via a TCP connection between the Web server and the broker that serves as one segment of the HTTP tunnel connection. In one embodiment, an HTTP tunnel servlet on the Web server node may serve as an interface between the Web server and the TCP connection to the broker. In one embodiment, one Web server and HTTP tunnel servlet may be used by two or more clients to communicate to a broker via HTTP tunnel connections. In this embodiment, the HTTP tunnel servlet may multiplex HTTP packets from the two or more clients onto the TCP connection. In one embodiment, the HTTP tunnel servlet may extract the messaging system message information from received HTTP packets and send only the message information to the broker over the TCP connection.

[0103] As indicated at 628, the broker may receive the HTTP packets from the Web server. In one embodiment, the broker may receive the packets on a TCP connection to the Web server. In one embodiment, a broker-side HTTP tunnel driver may receive the packets. In one embodiment, the broker may extract the messaging system messages from the HTTP packets and store the messages in a broker-side receive buffer. In another embodiment, the entire HTTP packet may be stored in a receive buffer. In one embodiment, there may be one receive buffer on the broker for each HTTP tunnel connection. In another embodiment, a single receive buffer may be used for two or more HTTP tunnel connections.

[0104] FIG. 6C expands on 608 of FIG. 6A and illustrates a method of a broker acknowledging to a client the receipt of HTTP packets from the client via the HTTP tunnel connection according to one embodiment. As indicated at 640, the broker may generate and send one or more acknowledgement (ACK) packets to the Web server. In one embodiment, the broker may store ACK packets in a broker-side transmit buffer. In one embodiment, the broker may send one ACK packet for each received HTTP packet. In another embodiment, the broker may send one ACK packet for each completely received messaging system message. In one embodiment, the ACK packets may be sent to the Web server over a TCP connection. In one embodiment, a broker-side HTTP tunnel driver may handle the transmission of the ACK packets on the TCP connection. In one embodiment, an HTTP tunnel servlet may receive the packets for the Web server.

[0105] As indicated at 642, the Web server may store the acknowledgement packets in an HTTP packet buffer. In one embodiment, there may be one HTTP packet buffer for each HTTP tunnel connection supported by the Web server. In another embodiment, there may be two HTTP packet buffers per tunnel connection, with one HTTP packet buffer for each message flow direction on each tunnel connection. In yet another embodiment, one or more HTTP packet buffers may be used for two or more tunnel connections.

[0106] As indicated at 644, at some point, the client may send an HTTP pull request packet to the Web server. In one embodiment, the client may periodically send HTTP pull requests to the Web server. In one embodiment, a separate thread on the client may handle periodically sending pull requests. The Web server may transmit to the client the one or more HTTP ACK packets stored in the HTTP packet buffer associated with the client in response to receiving the pull request packet as indicated at 646. As indicated at 648, the transmitted ACK packets may optionally pass through one or more firewalls. As indicated at 750, the transmitted ACK packets may optionally pass through a proxy server. As indicated at 652, the client may then receive the one or more ACK packets. In one embodiment, each ACK packet may include information on available space in the broker-side receive buffer to be used in flow control of HTTP packets from the client to the broker. The ACK packets may serve to acknowledge the receipt of the transmitted data so that the sender may free its transmit buffers.

[0107] FIGS. 7A-7C are flowcharts illustrating a method of sending messages from a messaging system client to a messaging system broker over an HTTP tunnel connection layer according to one embodiment. In FIG. 7A, a transport protocol tunnel connection between a client and a broker in a messaging system may be established as indicated at 700. As indicated at 702, one or more messaging system messages may be generated on the broker. In one embodiment, the generated messages may then be stored in a broker-side transmit buffer. One or more transport protocol packets encapsulating the one or more messages may be generated on the broker as indicated at 704. In one embodiment, a broker-side HTTP tunnel connection driver may generate the HTTP packets and include the messages as payloads of the packets. As indicated at 706, the one or more HTTP packets may then be transmitted to the client via the HTTP tunnel

connection. In one embodiment, the broker-side HTTP tunnel connection driver may handle the transmission of the packets.

[0108] As indicated at 708, the client may receive the HTTP packets, and then may acknowledge receipt of the one or more packets by sending one or more acknowledgement (ACK) packets to the broker via the HTTP tunnel connection. In one embodiment, the ACK packets may each include the currently available space in the client-side receive buffer. Thus, the sender (broker) can keep track of the current receive capacity of the receiver (client).

[0109] FIG. 7B expands on 706 of FIG. 7A and illustrates a method of transmitting one or more packets from a broker to a client via an HTTP tunnel connection according to one embodiment. As indicated at 720, the broker may generate and send one or more HTTP packets to the Web server. In one embodiment, the broker may store the HTTP packets in a broker-side transmit buffer. In one embodiment, the HTTP packets may be sent to the Web server over a TCP connection. In one embodiment, a broker-side HTTP tunnel driver may handle the transmission of the HTTP packets on the TCP connection.

[0110] As indicated at 722, the Web server may receive the HTTP packets and store the received HTTP packets in an HTTP packet buffer. In one embodiment, an HTTP tunnel servlet may receive the packets for the Web server. As indicated at 724, at some point, the client may send an HTTP pull request packet to the Web server. In one embodiment, the client may periodically send HTTP pull requests to the Web server. The Web server may transmit to the client the one or more HTTP packets stored in the HTTP packet buffer associated with the client in response to receiving the pull request packet as indicated at 726. As indicated at 728, the transmitted HTTP packets may optionally pass through one or more firewalls. As indicated at 730, the transmitted HTTP packets may optionally pass through a proxy server. As indicated at 732, the client may then receive the one or more HTTP packets. In one embodiment, the client may store the received HTTP packets in a client-side receive buffer. In one embodiment, each HTTP packet may include sequence information configured for use by the client in processing received messages in sequence.

[0111] FIG. 7C expands on 708 of FIG. 7A and illustrates a method of a client acknowledging to a broker the receipt of HTTP packets from the broker via the HTTP tunnel connection according to one embodiment. As indicated at 740, the client may generate and send one or more acknowledgement (ACK) packets to the broker. As indicated at 742, the transmitted ACK packets may optionally pass through a proxy server. As indicated at 744, the transmitted ACK packets may optionally pass through one or more firewalls. A Web server may then receive the one or more ACK packets as indicated at 746. For example, the client may transmit the ACK packets to a proxy server, the proxy server may transmit the ACK packets through a firewall onto the Internet, and the ACK packets may be received through another firewall by the Web server.

[0112] The Web server may then forward the received ACK packets to the broker as indicated at 748. In one embodiment, the ACK packets may be transmitted to the broker via a TCP connection between the Web server and the broker that serves as one segment of the HTTP tunnel

connection. In one embodiment, an HTTP tunnel servlet on the Web server node may serve as an interface between the Web server and the TCP connection to the broker.

[0113] As indicated at 750, the broker may receive the ACK packets from the Web server. In one embodiment, the broker may receive the packets on a TCP connection to the Web server. In one embodiment, a broker-side HTTP tunnel driver may receive the ACK packets. In one embodiment, the received ACK packets may be stored in a broker-side receive buffer. In one embodiment, each ACK packet may include information on available space in the client-side receive buffer to be used in flow control of HTTP packets from the broker to the client. The methods as described in FIGS. 6A-6C and FIGS. 7A-7C may be implemented in software, hardware, or a combination thereof. The order of method may be changed, and various steps may be added, reordered, combined, omitted, modified, etc.

[0114] FIG. 8 illustrates an exemplary HTTP tunneling protocol packet format according to one embodiment. The HTTP tunnel drivers at either end of a connection may encode all their data packets using this packet format. Each messaging system message may be carried separately as a HTTP request or response payload. A messaging system message may be sent as the payload of a single packet or, alternatively, the message may be broken into parts and sent as the payload of two or more packets.

[0115] The packet format may include several fields. Version 500 may indicate a version number of the packet that may be used to indicate different releases of the HTTP tunnel connection layer software. In one embodiment, the version 500 may be a 16-bit field. Packet type 502 may indicate the type of the packet. This field may be used to indicate to the HTTP tunnel driver at the other end what to do with the contents of this packet. In one embodiment, the packet type field may be 16 bits. Size 504 may indicate the size of the entire packet including the header. In one embodiment, this may be a 32-bit field. Connection ID 506 may be a unique integer that may be used as connection identifier. This value may be assigned at the time of connection establishment. This field may be used by the server to distinguish between connections to multiple clients. In one embodiment, this may be a 32-bit field. Packet sequence number 508 may be used to ensure sequential delivery of data bytes and flow control. In one embodiment, each packet may be assigned a unique incremental sequence number by the sender. In one embodiment, this may be a 32-bit field. One embodiment may include a receiver window size 510 that may be used for flow control and may indicate the capacity of the receive side buffer. In one embodiment, this may be a 16-bit field. One embodiment may guarantee that the packets are either delivered correctly, or in case of an error, are not delivered at all. Some embodiments may not use checksum 512, and thus this field may be reserved.

[0116] One embodiment of the HTTP tunnel connection layer may use a connection establishment protocol that may be used to initialize the following connection state components:

[0117] The HTTP tunnel servlet 214 allocates a unique connection ID for the new connection. It also may allocate one or more buffers 250 for packet streams in both directions.

[0118] The HTTP tunnel drivers on both server and client side allocate and initialize the transmit buffers and receive buffers for packet streams in both directions.

[0119] The following are examples of HTTP tunneling protocol packets that may be used in the connection establishment protocol and are not intended to be limiting. Note that one skilled in the art will recognize that other packet formats may be used within the scope of the invention.

[0120] A client 200 may initiate a connection to a server 202 by sending the following information in an HTTP packet to the HTTP tunnel servlet 214:

[0121] URL parameters="?"ServerName=<ServerIdString>&Type=connect" Packet Type=connection initialization packet (e.g. CONN_INIT_PACKET (1)).

[0122] Connection ID =0

[0123] The servlet 214 may allocate a unique connection ID for this connection and send it to the client 200 and the server 202 in HTTP packets including the following information:

[0124] Packet Type=connection initialization packet (e.g. CONN_INIT_PACKET (1)).

[0125] ConnectionID=<connid>

[0126] This information may be sent to the client 200 as a response payload for the HTTP request that carried the client's connection initialization packet.

[0127] The server 202 may acknowledge the connection initialization packet to the client 200 in an ACK packet that may include the following information:

[0128] Pull URL parameters=

[0129] "?ServerName=<ServerIdString>&Type=pull&ConnId=<connid>"

[0130] Packet Type=

[0131] connection initialization acknowledgement (e.g. CONN_INIT_ACK (2)).

[0132] After completion, both client 200 and server 202 are aware of the newly established connection and normal data exchange can begin.

[0133] Once the connection is established, both sides may start sending data and connection management packets. The following are examples of HTTP tunneling protocol packets that may be used as data and connection management packets and are not intended to be limiting. Note that one skilled in the art will recognize that other packet formats may be used within the scope of the invention.

[0134] From the client 200 to the HTTP tunnel servlet 214 to the server 202:

[0135] URL parameters="?"ServerName=<ServerIdString>&Type=push"

[0136] From the server 202 to the HTTP tunnel servlet 214 to the client 200:

[0137] Pull URL parameters=

[0138] "?ServerName=<ServerIdString>&Type=pull&ConnId=<connid>"

[0139] Each outgoing data packet (e.g. Packet Type=DATA_PACKET) may be assigned an incremental sequence number by the sender. The receiver may check the packet sequence number with its receive window. Any duplicate packets may be discarded.

[0140] After consuming a packet, the receiver may acknowledge the highest contiguous sequence number by sending the ACK packet as follows:

[0141] Packet Type=acknowledgement (e.g. ACK)

[0142] Connection ID=<connid>

[0143] Sequence=<sequence number of the data packet being acknowledged>

[0144] Receive Window Size=<remaining receive window capacity>

[0145] When an acknowledgement is received, the sender may update the round trip time for the connection. In one embodiment, a simple linear function of the computed round trip time may be used as the packet retransmission interval.

[0146] In one embodiment, when an acknowledgement packet reports a "Receive Window Size" of zero, the sender may stop sending further packets. The sender may send periodic repeat transmissions of the next packet to force the receiver to send a window update as soon as it is ready to receive more data. When the receiver indicates that it is ready to receive more data, the sender may resume sending packets.

[0147] In one embodiment, the HTTP Tunneling protocol may support the following runtime connection option. The client pull period is the duration (e.g. in seconds) of the idle period between consecutive pull requests sent by the client. If this value is positive, whenever the HTTP tunnel driver on the client side receives an empty response to its Pull request, the driver may sleep for the specified period before issuing another pull request. This may help conserve the servlet 214's resources and hence improve connection scalability.

[0148] Either client 200 or server 202 may set connection options. This may be used to control the runtime parameters associated with a connection. For example, this may be used to control how often packets are pulled from a Web server. As another example, this may be used to configure how long a client may remain inactive before the connection is dropped. The connection option values are part of the connection state information, and hence, in one embodiment, an HTTP packet including the following information may be used to update the connection options:

[0149] Packet Type=connection option packet (e.g. CONN_OPTION_PACKET)

Data = Option Type (integer)
 Option Value (integer)

[0150] In one embodiment, either end (client or server) may initiate connection shutdown by sending a connection close packet (e.g. Packet Type CONN_CLOSE_PACKET). Until both parties complete the connection shutdown, this packet may otherwise be treated like a normal data packet. This may help to ensure that all the data packets that are in

the pipeline ahead of the connection close packet are processed before the connection resources are destroyed. The remote end may consume all the data and acknowledge the connection close packet, at which point the connection is terminated and all the resources may be freed.

[0151] In one embodiment, a connection abort packet may be generated by the servlet when it realizes that either the server 202 or the client 200 has terminated ungracefully. The server termination may result in an IOException on the TCP connection between the servlet 214 and the server 202, and hence may be detected. In one embodiment, detecting client 200 termination may be handled as follows. If the servlet 214 does not receive a "pull" request from client 200 for a certain period of time, the servlet 214 may assume that the client 200 is not responding and thus may be down. The ungraceful connection shutdown may be achieved by sending a single packet with Packet Type connection abort packet (e.g. CONN_ABORT_PACKET) to the server 202 and possibly to the client 200 as well.

[0152] The following describes the initialization of the link between server 200 and HTTP tunneling servlet 214 according to one embodiment. The HTTP tunneling servlet 214 may listen on a fixed port number for TCP connections from servers. After the TCP connection is established to server 200, the server 200 may send the following information in an HTTP tunneling protocol packet to the servlet 214:

[0153] Packet Type: link initialization packet (e.g. LINK_INIT_PACKET)

ServerIdString (String)
ConnectionCount (Integer)
Data = Sequence of {ConnectionID (integer),
 ConnectionPullPeriod (integer)}

[0154] The ServerIdString may be used to establish the identity of the server 200. Clients may use this string to specify which server they want to talk to. This allows the use of a single servlet 214 as a gateway for multiple servers. The data portion of this packet may include information about any existing HTTP Tunnel connections. This allows HTTP tunnel connections to survive unexpected Web server/servlet engine failures or restarts.

[0155] Various embodiments may further include receiving, sending or storing instructions and/or data implemented in accordance with the foregoing description upon a carrier medium. Generally speaking, a carrier medium may include storage media or memory media such as magnetic or optical media, e.g., disk or CD-ROM, volatile or non-volatile media such as RAM (e.g. SDRAM, DDR SDRAM, RDRAM, SRAM, etc.), ROM, etc. as well as transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link.

[0156] In summary, a system and method for providing HTTP tunnel connections between entities such as clients and servers in a messaging system have been disclosed. It will be appreciated by those of ordinary skill having the benefit of this disclosure that the illustrative embodiments described above are capable of numerous variations without

departing from the scope and spirit of the invention. Various modifications and changes may be made as would be obvious to a person skilled in the art having the benefit of this disclosure. It is intended that the following claims be interpreted to embrace all such modifications and changes and, accordingly, the specifications and drawings are to be regarded in an illustrative rather than a restrictive sense.

What is claimed is:

1. A method comprising:

establishing a transport protocol tunnel connection from a first node in a messaging system to a second node in the messaging system;

generating a messaging system message on the first node;

generating one or more transport protocol packets, wherein the one or more transport protocol packets each includes at least a part of the messaging system message; and

transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection;

wherein the transport protocol tunnel connection provides full-duplex transmission of messaging system messages between the first node and the second node, and wherein the transport protocol tunnel connection further provides delivery of the messaging system messages in the sequence in which the messaging system messages are generated.

2. The method as recited in claim 1, further comprising storing the messaging system message in a transmit buffer on the first node after said generating the messaging system message on the first node.

3. The method as recited in claim 1, wherein the transport protocol tunnel connection passes through a proxy server.

4. The method as recited in claim 3, wherein said transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection comprises:

transmitting the one or more transport protocol packets from the first node to the proxy server; and

transmitting the one or more transport protocol packets from the proxy server to the second node.

5. The method as recited in claim 1, wherein the transport protocol tunnel connection passes through at least one firewall.

6. The method as recited in claim 1, wherein the transport protocol tunnel connection is established through a network.

7. The method as recited in claim 6, wherein the network is the Internet.

8. The method as recited in claim 1, wherein the first node is a client in the messaging system, and wherein the second node is a broker in the messaging system.

9. The method as recited in claim 1, wherein the transport protocol tunnel connection passes through a third node, and wherein, in said transmitting the one or more transport protocol packets to the second node, the method further comprises:

transmitting the one or more transport protocol packets to the third node; and

the third node forwarding the one or more transport protocol packets to the second node.

10. The method as recited in claim 9, wherein the one or more transport protocol packets are forwarded to the second node via a Transmission Control Protocol (TCP) connection portion of the transport protocol tunnel connection between the third node and the second node.

11. The method as recited in claim 9, wherein the third node is a Web server.

12. The method as recited in claim 1, wherein the transport protocol tunnel connection passes through a proxy server and a Web server, and wherein said transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection comprises:

transmitting the one or more transport protocol packets from the first node to the proxy server;

transmitting the one or more transport protocol packets from the proxy server to the Web server; and

the Web server forwarding the one or more transport protocol packets to the second node.

13. The method as recited in claim 12, wherein the transport protocol tunnel connection passes through at least one firewall between the proxy server and the Web server.

14. The method as recited in claim 1, wherein the one or more transport protocol packets include messaging system message sequence information configured for use in processing two or more messaging system messages in sequence.

15. The method as recited in claim 1, further comprising:

receiving the transmitted one or more transport protocol packets on the second node; and

storing the messaging system message from the one or more transport protocol packets in a receive buffer on the second node.

16. The method as recited in claim 1, further comprising:

receiving the transmitted one or more transport protocol packets on the second node;

the second node generating an acknowledgement transport protocol packet to indicate successful receipt of the one or more transport protocol packets including the messaging system message; and

transmitting the acknowledgement transport protocol packet to the first node via the transport protocol tunnel connection.

17. The method as recited in claim 16, further comprising:

storing the messaging system message from the received one or more transport protocol packets in a receive buffer on the second node;

wherein the acknowledgement transport protocol packet includes information indicating available space in the receive buffer, and wherein the information indicating available space in the receive buffer is configured for use in flow control of messaging system messages transmitted from the first node to the second node.

18. The method as recited in claim 17, further comprising:

receiving the transmitted acknowledgement transport protocol packet on the first node;

generating one or more messaging system messages on the first node;

storing the one or more messaging system messages in a transmit buffer on the first node;

determining from the information indicating available space in the receive buffer included in the received acknowledgement transport protocol packet if there is space available to receive the one or more messaging system messages on the second node;

if said determining indicates there is space available to store the one or more messaging system messages in the receive buffer of the second node:

generating a second one or more transport protocol packets, wherein the second one or more transport protocol packets include the one or more messaging system messages; and

transmitting the second one or more transport protocol packets to the second node via the transport protocol tunnel connection; and

if said determining indicates there is not space available to store the second messaging system message in the receive buffer of the second node, inhibiting generating the second one or more transport protocol packets including the one or more messaging system messages.

19. The method as recited in claim 18, further comprising:

the first node receiving a transport protocol packet indicating available space in the receive buffer of the second node;

determining from the information indicating available space in the receive buffer included in the received transport protocol packet that there is space available to receive the one or more messaging system messages on the second node;

generating the second one or more transport protocol packets, wherein the second one or more transport protocol packets include the one or more messaging system messages; and

transmitting the second one or more transport protocol packets to the second node via the transport protocol tunnel connection.

20. The method as recited in claim 16, wherein the transport protocol tunnel connection passes through a third node, and wherein, in said transmitting the acknowledgement transport protocol packet to the first node, the method further comprises:

transmitting the acknowledgement transport protocol packet to the third node; and

storing the acknowledgement transport protocol packet in a transport protocol packet buffer on the third node.

21. The method as recited in claim 20, wherein, in said transmitting the acknowledgement transport protocol packet to the first node, the method further comprises:

the first node transmitting a transport protocol request packet to the third node; and

the third node transmitting the acknowledgement transport protocol packet stored in the transport protocol

packet buffer to the first node via the transport protocol tunnel connection in response to the transport protocol request packet.

22. The method as recited in claim 21, wherein the acknowledgement transport protocol packet is transmitted to the third node via a Transmission Control Protocol (TCP) connection portion of the transport protocol tunnel connection.

23. The method as recited in claim 16, wherein the transport protocol tunnel connection passes through a third node, and wherein, in said transmitting the acknowledgement transport protocol packet to the first node, the method further comprises:

transmitting the acknowledgement transport protocol packet to the third node; and

the third node forwarding the acknowledgement transport protocol packet to the first node.

24. The method as recited in claim 23, wherein the acknowledgement transport protocol packet are forwarded to the first node via a Transmission Control Protocol (TCP) connection portion of the transport protocol tunnel connection.

25. The method as recited in claim 1, wherein the first node is a server in the messaging system, and wherein the second node is a client in the messaging system.

26. The method as recited in claim 1, wherein the transport protocol tunnel connection passes through a third node, and wherein, in said transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection, the method further comprises:

transmitting the one or more transport protocol packets to the third node; and

storing the one or more transport protocol packets in a transport protocol packet buffer on the third node.

27. The method as recited in claim 26, wherein, in said transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection, the method further comprises:

the second node sending one or more transport protocol request packets to the third node; and

the third node transmitting the one or more transport protocol packets stored in the transport protocol packet buffer to the second node via the transport protocol tunnel connection in response to the one or more transport protocol request packets.

28. The method as recited in claim 26, wherein the third node is a Web server.

29. The method as recited in claim 1, wherein the transport protocol is Hypertext Transport Protocol (HTTP).

30. The method as recited in claim 1, wherein the transport protocol is one of UDP (User Datagram Protocol), IrDA (Infrared Data Association), SNA (Systems Network Architecture), IPX (Internetwork Packet eXchange), and Bluetooth.

31. A method comprising:

establishing a Hypertext Transport Protocol (HTTP) tunnel connection from a first node in a messaging system to a second node in the messaging system;

generating a messaging system message on the first node;

generating one or more HTTP packets, wherein the one or more HTTP packets each includes at least a part of the messaging system message; and

transmitting the one or more HTTP packets to the second node via the HTTP tunnel connection;

wherein the HTTP tunnel connection provides full-duplex transmission of messaging system messages between the first node and the second node, and wherein the HTTP tunnel connection further provides delivery of the messaging system messages in the sequence in which the messaging system messages are generated.

32. The method as recited in claim 31, wherein the first node is a client in the messaging system, wherein the HTTP tunnel connection passes through a proxy server, and wherein said transmitting the one or more HTTP packets to the second node via the HTTP tunnel connection comprises:

transmitting the one or more HTTP packets from the client to the proxy server; and

transmitting the one or more HTTP packets from the proxy server to the second node.

33. The method as recited in claim 31, wherein the HTTP tunnel connection is established through the Internet, and wherein the HTTP tunnel connection passes through at least one firewall.

34. The method as recited in claim 31, wherein the first node is a client in the messaging system, and wherein the second node is a broker in the messaging system.

35. The method as recited in claim 31, wherein the HTTP tunnel connection passes to through a Web server, wherein the second node is a broker in the messaging system, and wherein, in said transmitting the one or more HTTP packets to the second node, the method further comprises:

transmitting the one or more HTTP packets to the Web server; and

the Web server forwarding the one or more HTTP packets to the broker via a Transmission Control Protocol (TCP) connection portion of the HTTP tunnel connection between the Web server and the broker.

36. The method as recited in claim 31, wherein the first node is a client in the messaging system, wherein the second node is a broker in the messaging system, wherein the HTTP tunnel connection passes through a proxy server and a Web server, and wherein said transmitting the one or more HTTP packets to the broker via the HTTP tunnel connection comprises:

transmitting the one or more HTTP packets from the client to the proxy server;

transmitting the one or more HTTP packets from the proxy server to the Web server; and

the Web server forwarding the one or more HTTP packets to the broker;

wherein the HTTP tunnel connection passes through at least one firewall between the proxy server and the Web server.

37. The method as recited in claim 31, wherein the one or more HTTP packets include messaging system message sequence information configured for use in processing two or more messaging system messages in sequence.

38. The method as recited in claim 31, further comprising: receiving the transmitted one or more HTTP packets on the second node;

storing the messaging system message from the one or more HTTP packets in a receive buffer on the second node;

the second node generating an acknowledgement HTTP packet to indicate successful receipt of the one or more HTTP packets including the messaging system message; and

transmitting the acknowledgement HTTP packet to the first node via the HTTP tunnel connection.

39. The method as recited in claim 38, wherein the acknowledgement HTTP packet includes information indicating available space in the receive buffer, the method further comprising:

receiving the transmitted acknowledgement HTTP packet on the first node;

generating one or more messaging system messages on the first node;

storing the one or more messaging system messages in a transmit buffer on the first node;

determining from the information indicating available space in the receive buffer included in the received acknowledgement HTTP packet that there is not space available to receive the one or more messaging system messages on the second node;

the first node receiving an HTTP packet from the second node indicating available space in the receive buffer of the second node;

determining from the information indicating available space in the receive buffer included in the received HTTP packet that there is space available to receive the one or more messaging system messages on the second node;

generating a second one or more HTTP packets, wherein the second one or more HTTP packets include the one or more messaging system messages; and

transmitting the second one or more HTTP packets to the second node via the HTTP tunnel connection.

40. The method as recited in claim 38, wherein the first node is a client in the messaging system, wherein the HTTP tunnel connection passes through a Web server, and wherein, in said transmitting the acknowledgement HTTP packet to the first node, the method further comprises:

transmitting the acknowledgement HTTP packet to the Web server;

storing the acknowledgement HTTP packet in an HTTP packet buffer on the Web server;

the client sending an HTTP request packet to the Web server; and

the Web server transmitting the acknowledgement HTTP packet stored in the HTTP packet buffer to the client via the HTTP tunnel connection in response to the HTTP request packet.

41. The method as recited in claim 38, wherein the first node is a broker in the messaging system, wherein the HTTP tunnel connection passes through a Web server, and wherein, in said transmitting the acknowledgement HTTP packet to the first node, the method further comprises:

transmitting the acknowledgement HTTP packet to the Web server; and

the Web server forwarding the acknowledgement HTTP packet to the first node via a Transmission Control Protocol (TCP) connection portion of the HTTP tunnel connection.

42. The method as recited in claim 31, wherein the first node is a server in the messaging system, and wherein the second node is a client in the messaging system.

43. The method as recited in claim 31, wherein the second node is a client in the messaging system, wherein the HTTP tunnel connection passes through a Web server, and wherein, in said transmitting the one or more HTTP packets to the second node via the HTTP tunnel connection, the method further comprises:

transmitting the one or more HTTP packets to the Web server;

storing the one or more HTTP packets in an HTTP packet buffer on the Web server;

the client sending one or more HTTP request packets to the Web server; and

the Web server transmitting the one or more HTTP packets stored in the HTTP packet buffer to the client via the HTTP tunnel connection in response to the one or more HTTP request packets.

44. A method comprising:

establishing a transport protocol tunnel connection from a first node in a messaging system to a second node in the messaging system;

generating a sequence of messaging system messages on the first node;

generating a plurality of transport protocol packets on the first node, wherein each of the transport protocol packets includes at least a part of one of the sequence of messaging system messages, and wherein each of the transport protocol packets includes sequence information for the particular messaging system message;

transmitting the plurality of transport protocol packets to the second node in the messaging system via the transport protocol tunnel connection;

receiving the plurality of transport protocol packets on the second node; and

processing the sequence of messaging system messages on the second node, wherein said processing uses the sequence information for the plurality of messaging system messages in the plurality of transport protocol packets.

45. The method as recited in claim 44, wherein the transport protocol tunnel connection is established through the Internet, and wherein the transport protocol tunnel connection passes through at least one firewall.

46. The method as recited in claim 44, wherein the first node is a client in the messaging system, wherein the second node is a broker in the messaging system.

47. The method as recited in claim 44, wherein the second node is a broker in the messaging system, wherein the transport protocol tunnel connection passes through a Web server, and wherein said transmitting the plurality of transport protocol packets to the second node in the messaging system via the transport protocol tunnel connection comprises:

transmitting the plurality of transport protocol packets from the first node to the Web server; and

the Web server forwarding the plurality of transport protocol packets to the broker;

wherein the transport protocol tunnel connection passes through at least one firewall between the proxy server and the Web server.

48. The method as recited in claim 44, wherein the first node is a broker in the messaging system, wherein the second node is a client in the messaging system.

49. The method as recited in claim 44, wherein the second node is a client in the messaging system, wherein the transport protocol tunnel connection passes through a Web server, and wherein, in said transmitting the plurality of transport protocol packets to the second node in the messaging system via the transport protocol tunnel connection comprises:

transmitting the plurality of transport protocol packets to the Web server;

storing the plurality of transport protocol packets in a transport protocol packet buffer on the Web server;

the client sending one or more transport protocol request packets to the Web server; and

the Web server transmitting the plurality of transport protocol packets stored in the transport protocol packet buffer to the client via the transport protocol tunnel connection in response to the one or more transport protocol request packets.

50. The method as recited in claim 44, further comprising:

storing the sequence of messaging system messages from the received transport protocol packets in a receive buffer on the second node;

the second node generating an acknowledgement transport protocol packet for each of the received transport protocol packets to indicate successful receipt of the transport protocol packets including the sequence of messaging system messages; and

transmitting the acknowledgement transport protocol packets to the first node via the transport protocol tunnel connection;

wherein each of the acknowledgement transport protocol packets includes information indicating available space in the receive buffer, wherein the information indicating available space in the receive buffer is configured for use in flow control of messaging system messages transmitted from the first node to the second node.

51. The method as recited in claim 44, wherein the transport protocol is Hypertext Transport Protocol (HTTP).

52. A method comprising:

establishing a transport protocol tunnel connection from a first node in a messaging system to a second node in the messaging system;

the first node receiving a first transport protocol packet from the second node indicating available space in a receive buffer of the second node;

generating one or more messaging system messages on the first node;

storing the one or more messaging system messages in a transmit buffer on the first node;

determining from the information indicating available space in the receive buffer included in the received acknowledgement HTTP packet that there is not space available to receive the one or more messaging system messages on the second node;

the first node receiving a second transport protocol packet from the second node indicating available space in the receive buffer of the second node;

determining from the information indicating available space in the receive buffer included in the received second transport protocol packet that there is space available to receive the one or more messaging system messages on the second node;

generating one or more transport protocol packets, wherein the second one or more transport protocol packets include the generated one or more messaging system messages; and

transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection.

53. The method as recited in claim 52, wherein the transport protocol tunnel connection is established through the Internet, and wherein the transport protocol tunnel connection passes through at least one firewall.

54. The method as recited in claim 52, wherein the first node is a client in the messaging system, wherein the second node is a broker in the messaging system.

55. The method as recited in claim 52, wherein the first node is a broker in the messaging system, wherein the second node is a client in the messaging system.

56. The method as recited in claim 52, further comprising:

receiving the one or more transport protocol packets on the second node;

storing the one or more messaging system messages from the received one or more transport protocol packets in the receive buffer on the second node;

the second node generating one or more acknowledgement transport protocol packets to indicate successful receipt of the one or more transport protocol packets including the one or more of messaging system messages; and

transmitting the one or more acknowledgement transport protocol packets to the first node via the transport protocol tunnel connection;

wherein each of the acknowledgement transport protocol packets includes information indicating available space in the receive buffer.

57. The method as recited in claim 52, wherein the one or more transport protocol packets include messaging system message sequence information configured for use in processing two or more messaging system messages in sequence.

58. The method as recited in claim 52, wherein the transport protocol is Hypertext Transport Protocol (HTTP).

59. A messaging system comprising:

a first node comprising a first memory;

a second node comprising a second memory;

wherein the first memory comprises first program instructions executable within the first node to:

establish a transport protocol tunnel connection from the first node to the second node through a network;

generate a messaging system message;

generate one or more transport protocol packets, wherein the one or more transport protocol packets each includes at least a part of the messaging system message; and

transmit the one or more transport protocol packets to the second node via the transport protocol tunnel connection;

wherein the transport protocol tunnel connection provides full-duplex transmission of messaging system messages between the first node and the second node, and wherein the transport protocol tunnel connection further provides delivery of the messaging system messages in the sequence in which the messaging system messages are generated.

60. The messaging system as recited in claim 59, wherein the first node further comprises a transmit buffer, wherein the first program instructions are further executable within the first node to store the messaging system message in the transmit buffer on the first node after said generating the messaging system message.

61. The messaging system as recited in claim 59, wherein the transport protocol tunnel connection passes through a proxy server, and wherein, in said transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection, the first program instructions are further executable within the first node to transmit the one or more transport protocol packets from the first node to the proxy server, wherein the proxy server is configured to transmit the one or more transport protocol packets to the second node.

62. The messaging system as recited in claim 59, wherein the transport protocol tunnel connection passes through at least one firewall.

63. The messaging system as recited in claim 59, wherein the transport protocol tunnel connection is established through the Internet.

64. The messaging system as recited in claim 59, wherein the first node is a client in the messaging system, and wherein the second node is a broker in the messaging system.

65. The messaging system as recited in claim 59, wherein the messaging system further comprises:

a third node comprising a third memory;

wherein the transport protocol tunnel connection passes through the third node, and wherein, in said transmitting the one or more transport protocol packets to the second node, the first program instructions are further executable within the first node to:

transmit the one or more transport protocol packets to the third node;

wherein the third memory comprises third program instructions executable within the third node to:

receive the one or more transport protocol packets from the first node; and

forward the one or more received transport protocol packets to the second node.

66. The messaging system as recited in claim 65, wherein the one or more transport protocol packets are forwarded from the third node to the second node via a Transmission Control Protocol (TCP) connection portion of the transport protocol tunnel connection between the third node and the second node.

67. The messaging system as recited in claim 66, wherein the transport protocol tunnel connection passes through at least one firewall between the first node and the third node.

68. The messaging system as recited in claim 59, wherein the one or more transport protocol packets include messaging system message sequence information configured for use in processing two or more messaging system messages in sequence.

69. The messaging system as recited in claim 59, wherein the second memory comprises second program instructions executable within the second node to:

receive the transmitted one or more transport protocol packets;

generate an acknowledgement transport protocol packet to indicate successful receipt of the one or more transport protocol packets including the messaging system message; and

transmit the acknowledgement transport protocol packet to the first node via the transport protocol tunnel connection.

70. The messaging system as recited in claim 69, wherein the second node further comprises a receive buffer, wherein the second program instructions are further executable within the second node to:

store the messaging system message from the received one or more transport protocol packets in the receive buffer of the second node;

wherein the acknowledgement transport protocol packet includes information indicating available space in the receive buffer of the second node.

71. The messaging system as recited in claim 70, wherein the first node further comprises a transmit buffer, wherein the first program instructions are further executable within the first node to:

receive the transmitted acknowledgement transport protocol packet;

generate one or more messaging system messages;

store the one or more messaging system messages in the transmit buffer on the first node;

from the information indicating available space in the receive buffer included in the received acknowledgement transport protocol packet, determine if there is space available to receive the one or more messaging system messages on the second node;

if said determining indicates there is space available to store the one or more messaging system messages in the receive buffer of the second node:

generate a second one or more transport protocol packets, wherein the second one or more transport protocol packets include the one or more messaging system messages; and

transmit the second one or more transport protocol packets to the second node via the transport protocol tunnel connection; and

if said determining indicates there is not space available to store the second messaging system message in the receive buffer of the second node, inhibit generating the second one or more transport protocol packets including the one or more messaging system messages.

72. The messaging system as recited in claim 71, wherein the first program instructions are further executable within the first node to:

receive a transport protocol packet indicating available space in the receive buffer of the second node;

from the information indicating available space in the receive buffer included in the received transport protocol packet, determine that there is space available to receive the one or more messaging system messages on the second node;

generate the second one or more transport protocol packets, wherein the second one or more transport protocol packets include the one or more messaging system messages; and

transmit the second one or more transport protocol packets to the second node via the transport protocol tunnel connection.

73. The messaging system as recited in claim 69, further comprising:

a third node comprising:

a third memory; and

a transport protocol packet buffer;

wherein the transport protocol tunnel connection passes through the third node, wherein the third memory comprises third program instructions executable within the third node to:

receive the acknowledgement transport protocol packet transmitted to the first node via the transport protocol tunnel connection from the second node; and

store the received acknowledgement transport protocol packet in the transport protocol packet buffer.

74. The messaging system as recited in claim 73, wherein the first program instructions are further executable within the first node to:

transmit a transport protocol request packet to the third node; and

wherein the third program instructions are further executable within the third node to:

receive the transport protocol request packet from the first node; and

transmit the acknowledgement transport protocol packet stored in the transport protocol packet buffer to the first node via the transport protocol tunnel connection in response to the received transport protocol request packet.

75. The messaging system as recited in claim 69, further comprising:

a third node comprising a third memory, wherein the transport protocol tunnel connection passes through the third node, wherein the third memory comprises third program instructions executable within the third node to:

receive the acknowledgement transport protocol packet transmitted to the first node via the transport protocol tunnel connection from the second node; and

forward the acknowledgement transport protocol packet to the first node.

76. The messaging system as recited in claim 59, wherein the first node is a server in the messaging system, and wherein the second node is a client in the messaging system.

77. The messaging system as recited in claim 59, further comprising:

a third node comprising:

a third memory; and

a transport protocol packet buffer;

wherein the transport protocol tunnel connection passes through the third node, wherein the third memory comprises third program instructions executable within the third node to:

receive the one or more transport protocol packets transmitted to the second node via the transport protocol tunnel connection from the first node; and

store the one or more transport protocol packets in the transport protocol packet buffer on the third node.

wherein the second program instructions are further executable within the second node to transmit one or more transport protocol request packets to the third node; and

wherein the third program instructions are further executable within the third node to:

receive the one or more transmitted transport protocol request packets; and

transmit the one or more transport protocol packets stored in the transport protocol packet buffer to the second node via the transport protocol tunnel connection in response to the received one or more transport protocol request packets.

78. The messaging system as recited in claim 59, wherein the transport protocol is Hypertext Transport Protocol (HTTP).

79. The messaging system as recited in claim 59, wherein the transport protocol is one of UDP (User Datagram Protocol), IrDA (Infrared Data Association), SNA (Systems Network Architecture), IPX (Internetwork Packet eXchange), and Bluetooth.

80. A carrier medium comprising program instructions, wherein the program instructions are computer-executable to implement:

establishing a transport protocol tunnel connection from a first node in a messaging system to a second node in the messaging system;

generating a messaging system message on the first node;

generating one or more transport protocol packets, wherein the one or more transport protocol packets each includes at least a part of the messaging system message; and

transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection;

wherein the transport protocol tunnel connection provides full-duplex transmission of messaging system messages between the first node and the second node, and wherein the transport protocol tunnel connection further provides delivery of the messaging system messages in the sequence in which the messaging system messages are generated.

81. The carrier medium as recited in claim 80, wherein the transport protocol tunnel connection passes through a Web server, wherein the second node is a broker in the messaging system, and wherein, in said transmitting the one or more transport protocol packets to the second node, the program instructions are further computer-executable to implement:

transmitting the one or more transport protocol packets to the Web server; and

the Web server forwarding the one or more transport protocol packets to the broker via a Transmission Control Protocol (TCP) connection portion of the transport protocol tunnel connection between the Web server and the broker.

82. The carrier medium as recited in claim 80, wherein the first node is a client in the messaging system, wherein the second node is a broker in the messaging system, wherein the transport protocol tunnel connection passes through a proxy server and a Web server, and wherein, in said transmitting the one or more transport protocol packets to the broker via the transport protocol tunnel connection, the program instructions are further computer-executable to implement:

transmitting the one or more transport protocol packets from the client to the proxy server;

transmitting the one or more transport protocol packets from the proxy server to the Web server; and

the Web server forwarding the one or more transport protocol packets to the broker;

wherein the transport protocol tunnel connection passes through at least one firewall between the proxy server and the Web server.

83. The carrier medium as recited in claim **80**, wherein the acknowledgement transport protocol packet includes information indicating available space in the receive buffer, and wherein the program instructions are further computer-executable to implement:

receiving the transmitted one or more transport protocol packets on the second node;

storing the messaging system message from the one or more transport protocol packets in a receive buffer on the second node;

generating on the second node an acknowledgement transport protocol packet to indicate successful receipt of the one or more transport protocol packets including the messaging system message;

transmitting the acknowledgement transport protocol packet to the first node via the transport protocol tunnel connection;

receiving the transmitted acknowledgement transport protocol packet on the first node;

generating one or more messaging system messages on the first node;

storing the one or more messaging system messages in a transmit buffer on the first node;

determining from the information indicating available space in the receive buffer included in the received acknowledgement transport protocol packet that there is space available to receive the one or more messaging system messages on the second node;

generating a second one or more transport protocol packets, wherein the second one or more transport protocol packets include the one or more messaging system messages; and

transmitting the second one or more transport protocol packets to the second node via the transport protocol tunnel connection.

84. The carrier medium as recited in claim **80**, wherein the first node is a client in the messaging system, wherein the transport protocol tunnel connection passes through a Web server, and wherein the program instructions are further computer-executable to implement:

receiving the transmitted one or more transport protocol packets on the second node;

storing the messaging system message from the one or more transport protocol packets in a receive buffer on the second node;

the second node generating an acknowledgement transport protocol packet to indicate successful receipt of the one or more transport protocol packets including the messaging system message;

transmitting the acknowledgement transport protocol packet to the Web server;

storing the acknowledgement transport protocol packet in a transport protocol packet buffer on the Web server;

the client sending a transport protocol request packet to the Web server; and

the Web server transmitting the acknowledgement transport protocol packet stored in the transport protocol packet buffer to the client via the transport protocol tunnel connection in response to the transport protocol request packet.

85. The carrier medium as recited in claim **80**, wherein the first node is a broker in the messaging system, wherein the transport protocol tunnel connection passes through a Web server, and wherein the program instructions are further computer-executable to implement:

receiving the transmitted one or more transport protocol packets on the second node;

storing the messaging system message from the one or more transport protocol packets in a receive buffer on the second node;

the second node generating an acknowledgement transport protocol packet to indicate successful receipt of the one or more transport protocol packets including the messaging system message;

transmitting the acknowledgement transport protocol packet to the Web server; and

the Web server forwarding the acknowledgement transport protocol packet to the first node via a Transmission Control Protocol (TCP) connection portion of the transport protocol tunnel connection.

86. The carrier medium as recited in claim **80**, wherein the second node is a client in the messaging system, wherein the transport protocol tunnel connection passes through a Web server, and wherein, in said transmitting the one or more transport protocol packets to the second node via the transport protocol tunnel connection, the program instructions are further computer-executable to implement:

transmitting the one or more transport protocol packets to the Web server;

storing the one or more transport protocol packets in a transport protocol packet buffer on the Web server;

the client sending one or more transport protocol request packets to the Web server; and

the Web server transmitting the one or more transport protocol packets stored in the transport protocol packet buffer to the client via the transport protocol tunnel connection in response to the one or more transport protocol request packets.

87. The carrier medium as recited in claim **80**, wherein the transport protocol is Hypertext Transport Protocol (HTTP).

* * * * *

(B) Evidence for Claims 4-9 – Relied Upon

The following item (1) listed below is hereby entered as evidence relied upon by the Examiner as to grounds of possible rejection for claims 4-9, to be reviewed on appeal. As noted above the confusion is based on the Examiner not following established procedures and properly identifying all new grounds of rejection. Also listed for each item is where said evidence was entered into the record by the Examiner.

(1) Copy of US Patent Application Number 20020083183 ("Pujare"). This evidence was entered into the record by the Examiner on page 4 paragraph 8. 9. 10. 11. 12. and page 5 at paragraph 13. of the Office Action mailed 08/12/2005.

Copies of all References follows.

//

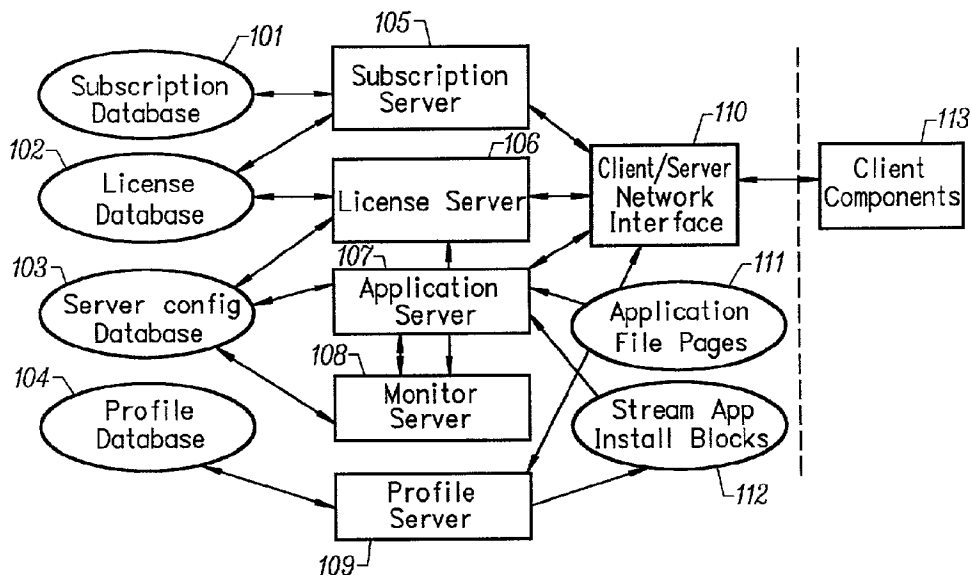


US 20020083183A1

(19) **United States**(12) **Patent Application Publication**
Pujare et al.(10) **Pub. No.: US 2002/0083183 A1**(43) **Pub. Date: Jun. 27, 2002**(54) **CONVENTIONALLY CODED APPLICATION
CONVERSION SYSTEM FOR STREAMED
DELIVERY AND EXECUTION**(52) **U.S. Cl. 709/231; 709/224**(76) Inventors: **Sanjay Pujare**, San Jose, CA (US);
Robert Deuel, Mountain View, CA
(US); **Nicholas Ryan**, Santa Clara, CA
(US); **Manuel Benitez**, Cupertino, CA
(US); **David Lin**, Mountain View, CA
(US)(57) **ABSTRACT**

A conventionally coded application conversion system for streamed delivery and execution converts locally installable applications into a data set suitable for streaming over a network. The invention monitors two classes of information during an application installation on a local computer system. System registry modifications are monitored and the modification data are recorded when the installation program writes to the registry of the local computer system. File modification data are logged each time an installation program modifies a file on the system. This data is used to create an initialization data set which is the first set of data to be streamed from the server to the client and contains the information captured needed by the client to prepare the client machine for streaming a particular application. A runtime data set is also created that contains the rest of the data that is streamed to the client once the client machine is initialized for a particular application. A versioning table contains a list of root file numbers and version numbers which are used to track application patches and upgrades. The invention monitors a running application that is being configured for a particular working environment on the local computer system. The data acquired are used to duplicate the same configuration on multiple client machines.

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3475 EDISON WAY
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MENLO PARK, CA 94025 (US)(21) Appl. No.: **09/826,607**(22) Filed: **Apr. 5, 2001****Related U.S. Application Data**(63) Non-provisional of provisional application No.
60/246,384, filed on Nov. 6, 2000.**Publication Classification**(51) **Int. Cl.⁷ G06F 15/173; G06F 15/16****Server Components Supporting Application Delivery & Execution License**

Server Components Supporting Application Delivery & Execution License

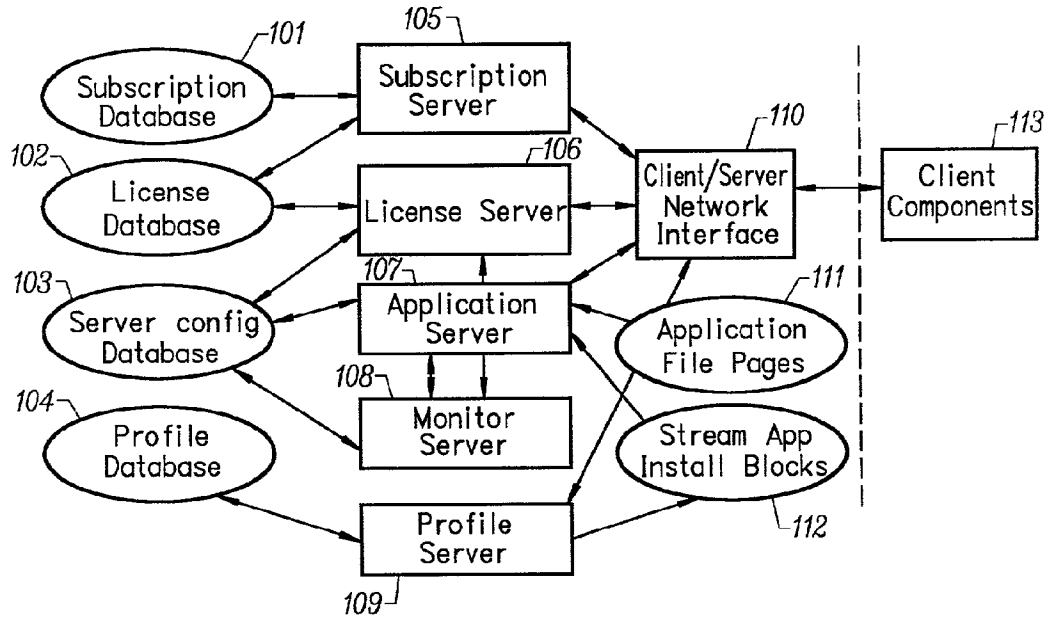


FIG. 1

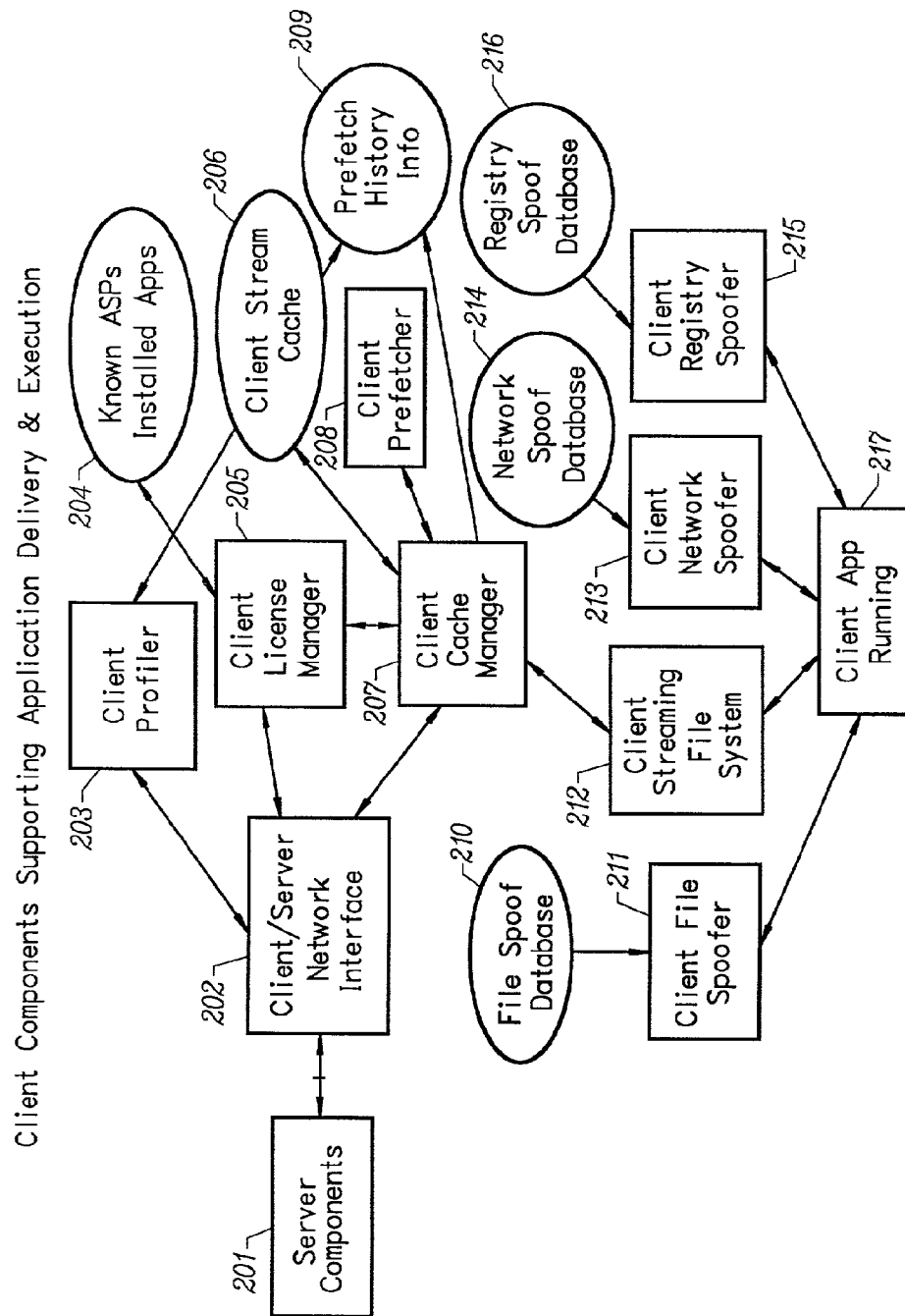


FIG. 2

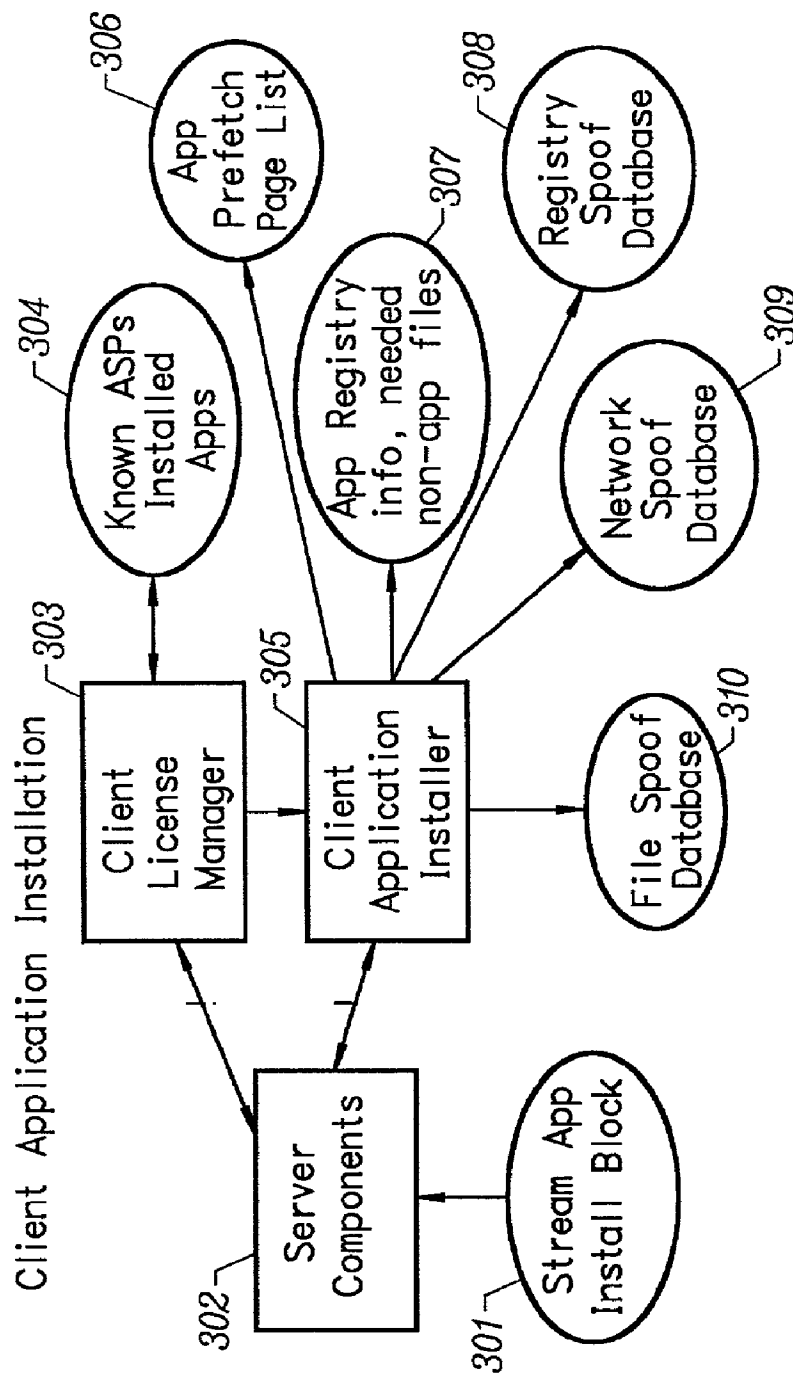


FIG. 3

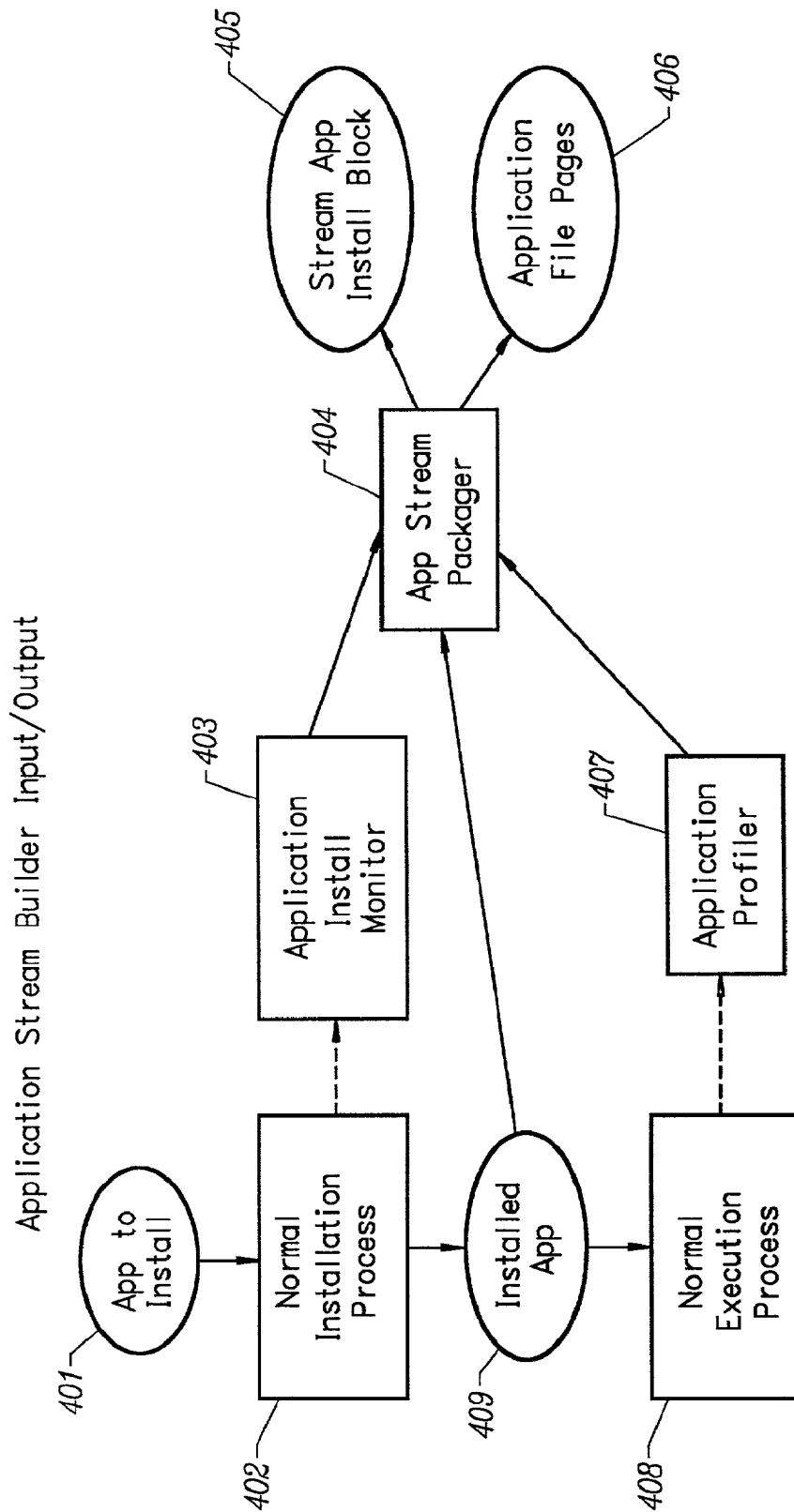


FIG. 4

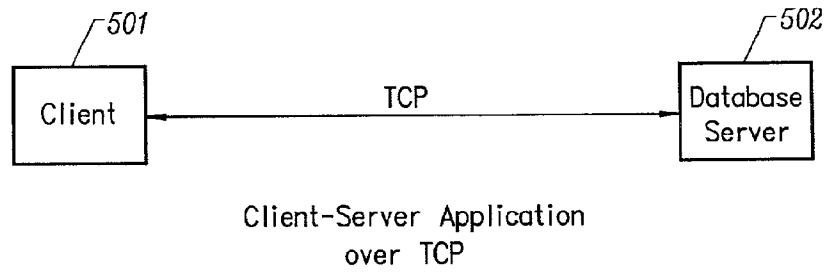


FIG. 5A

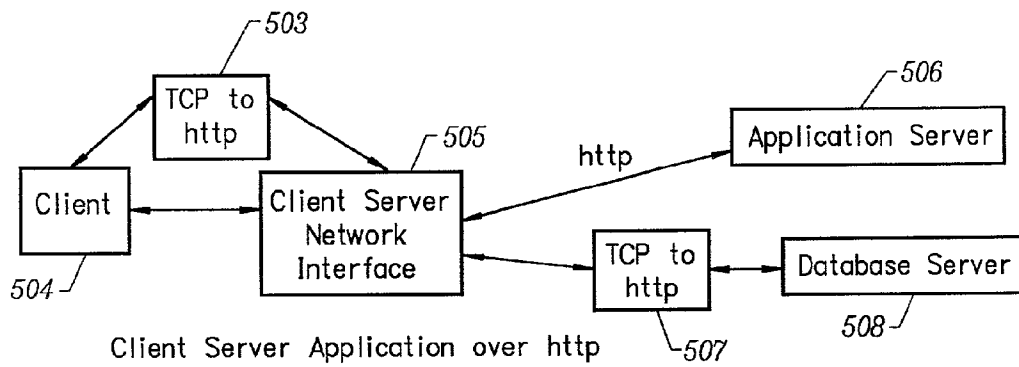


FIG. 5B

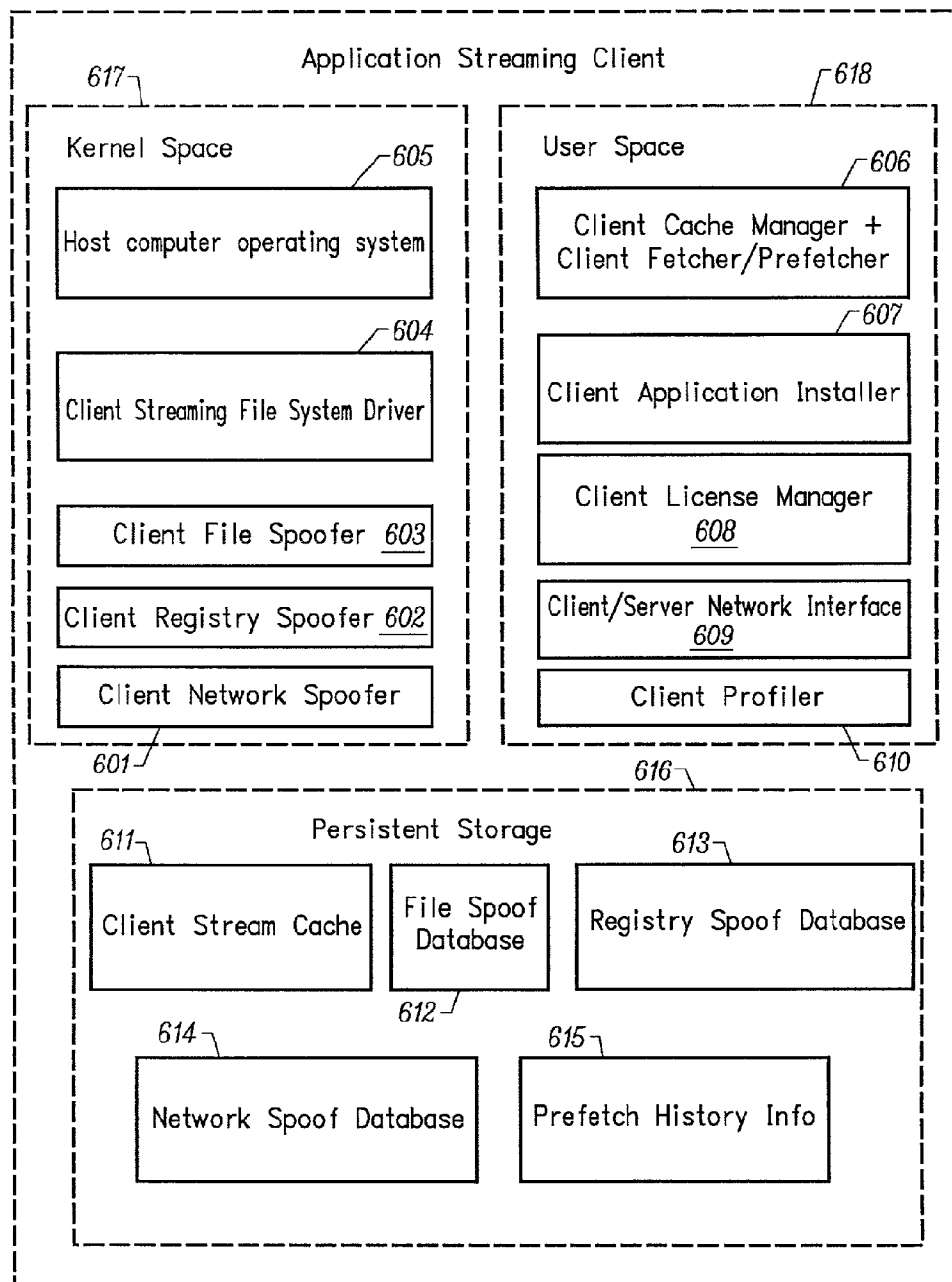


FIG. 6A

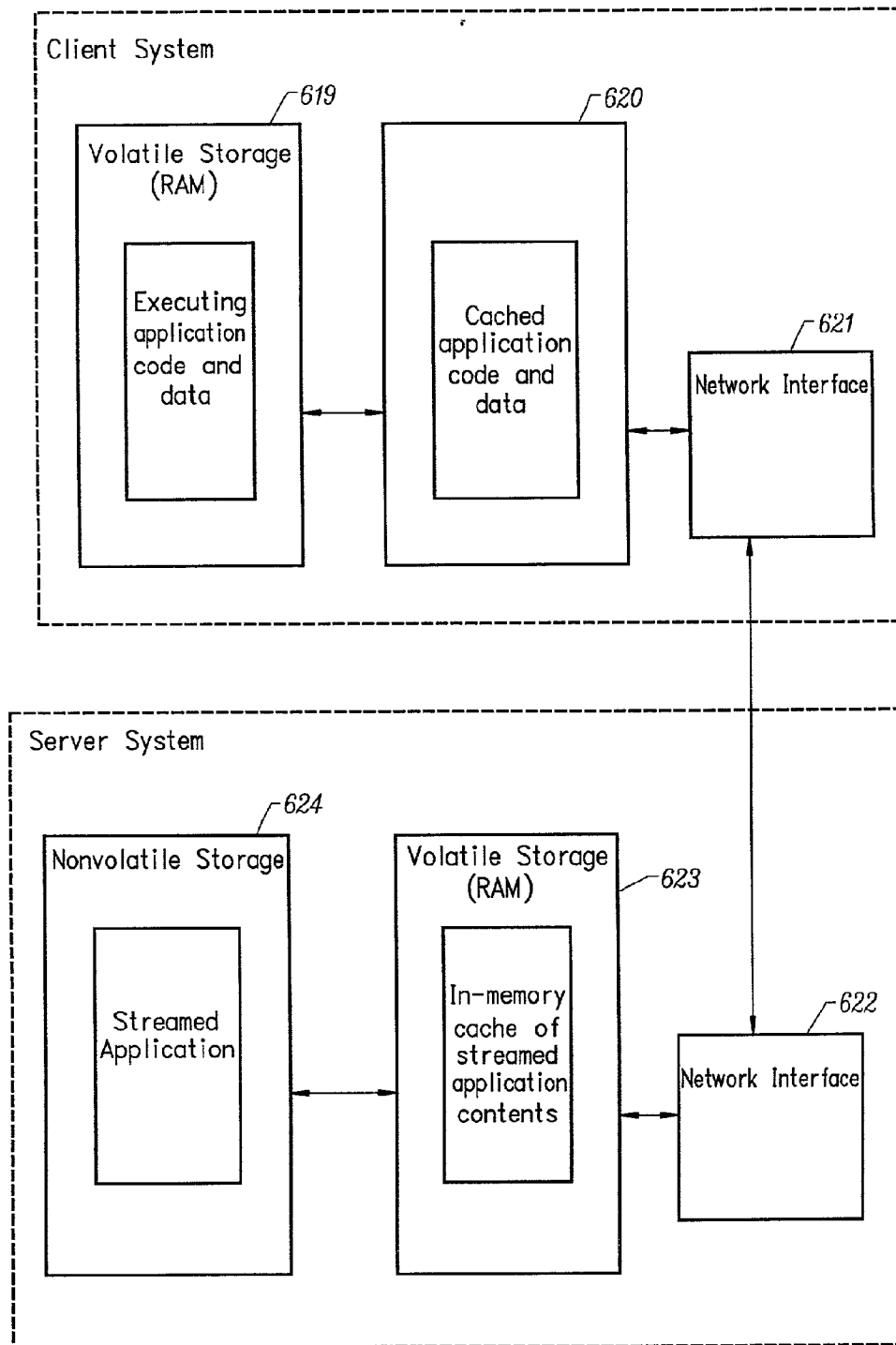


FIG. 6B

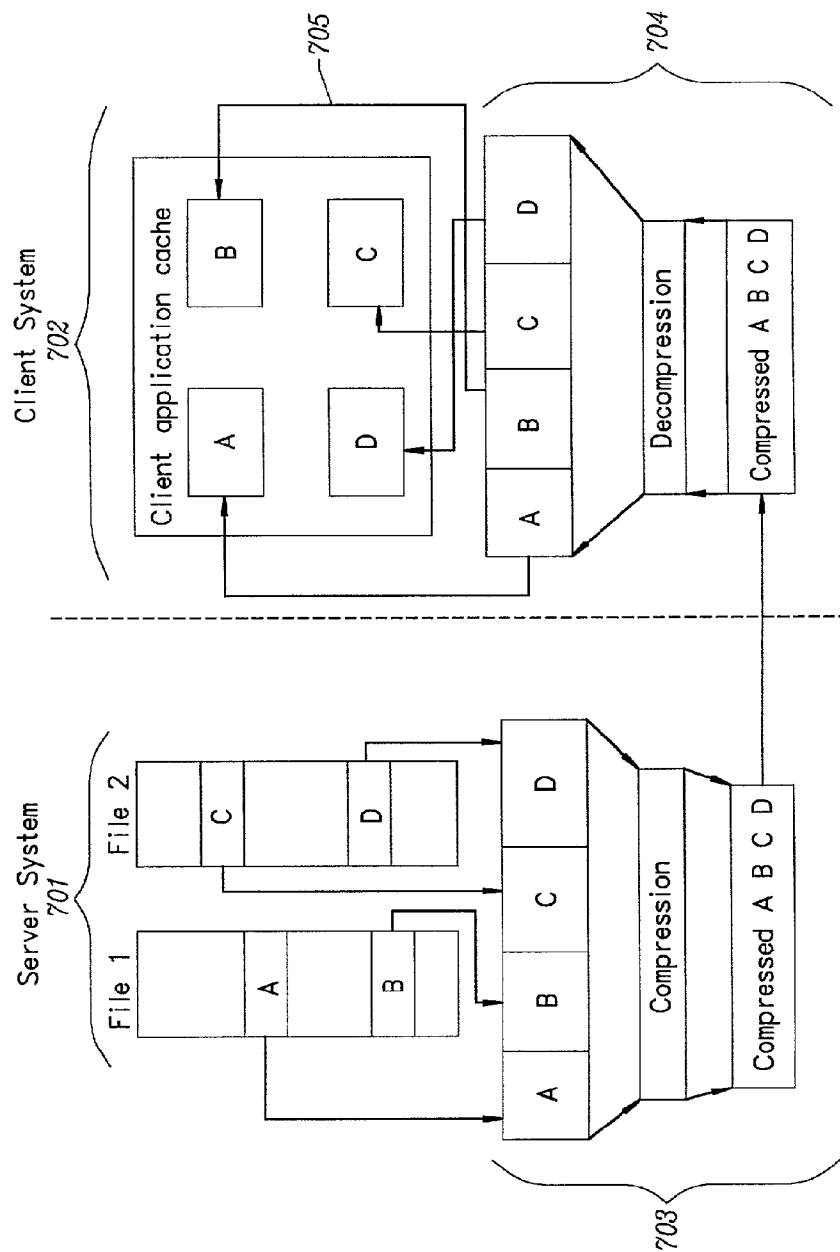


FIG. 7A

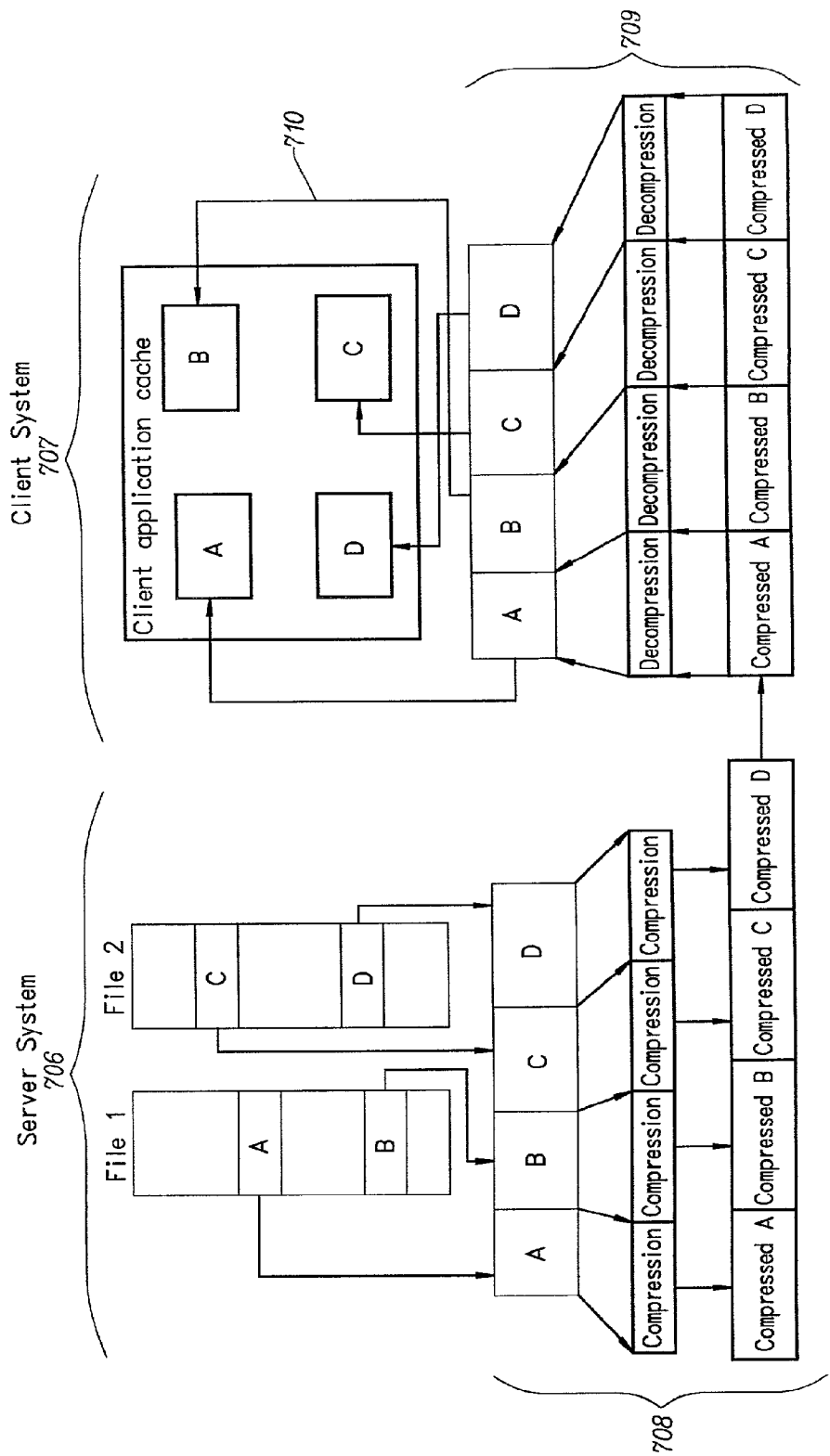


FIG. 7B

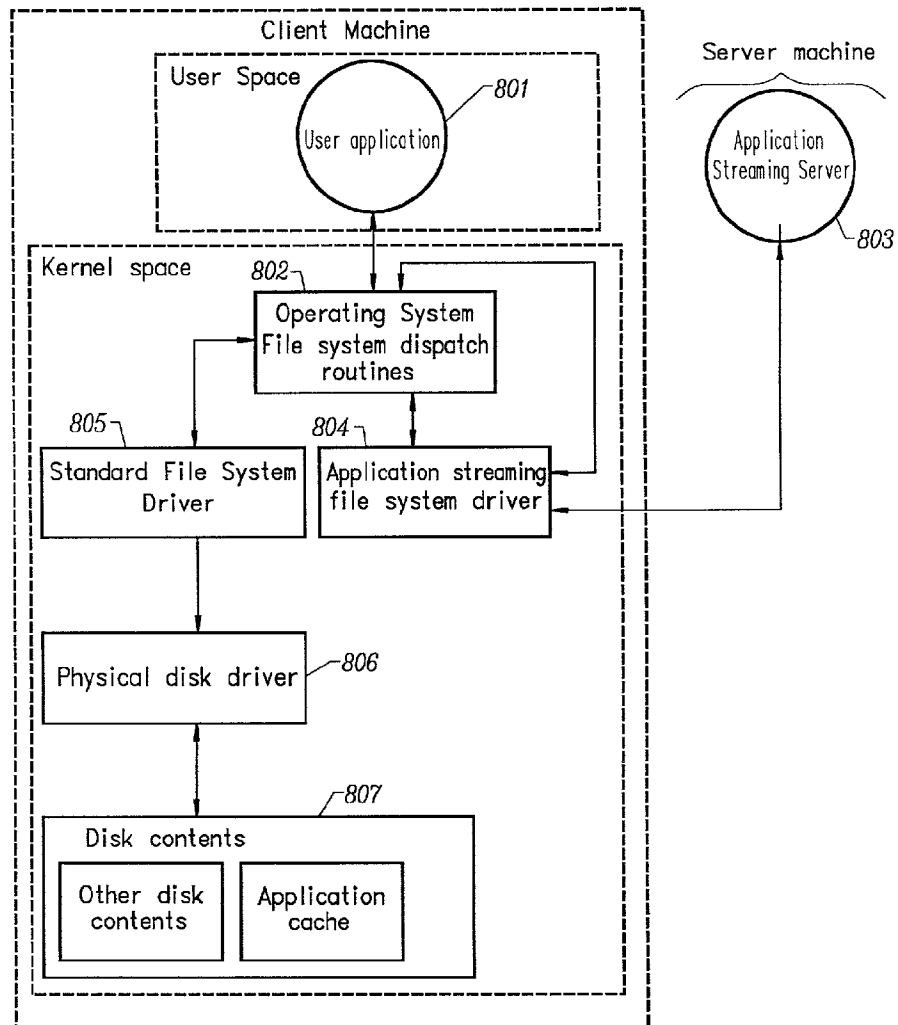


FIG. 8

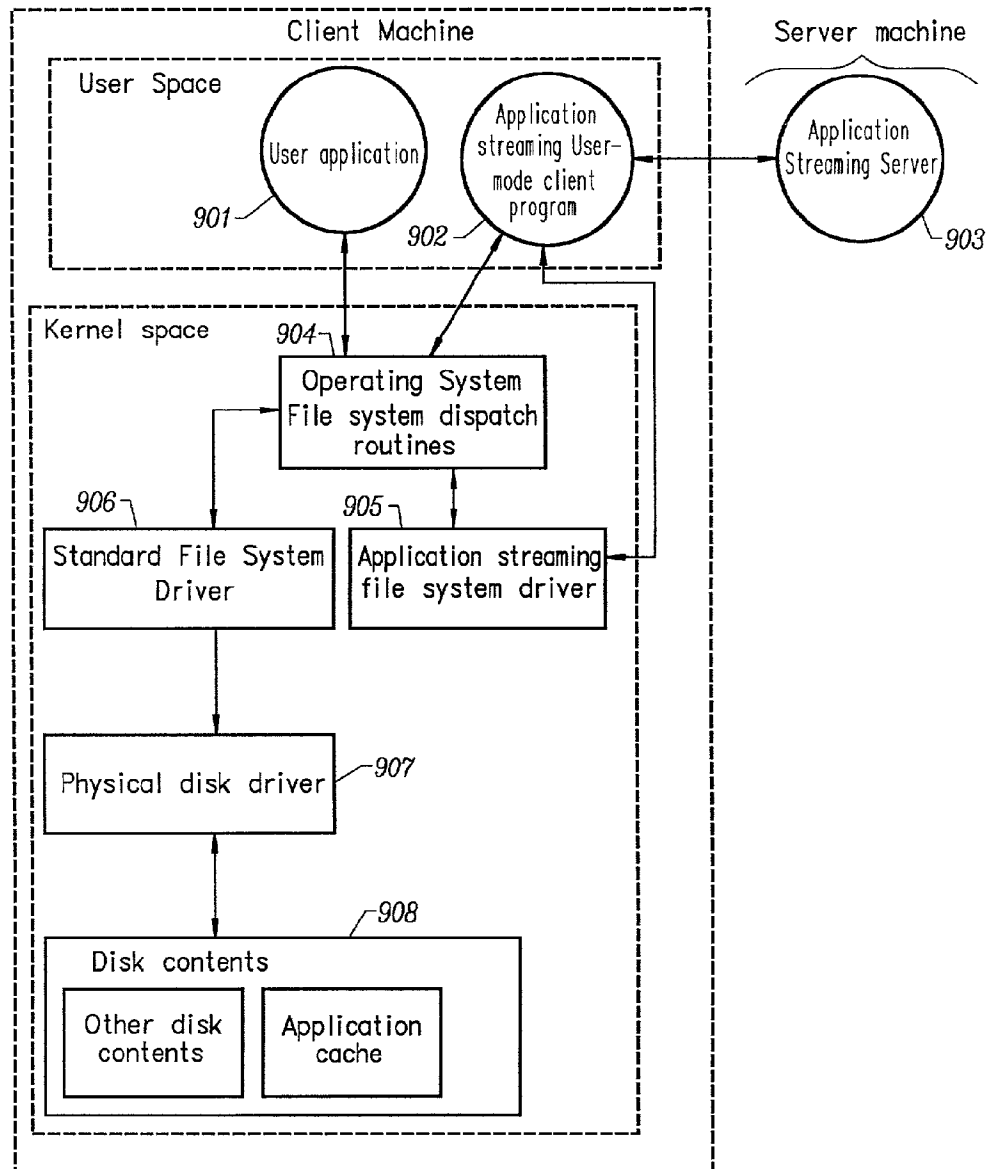


FIG. 9

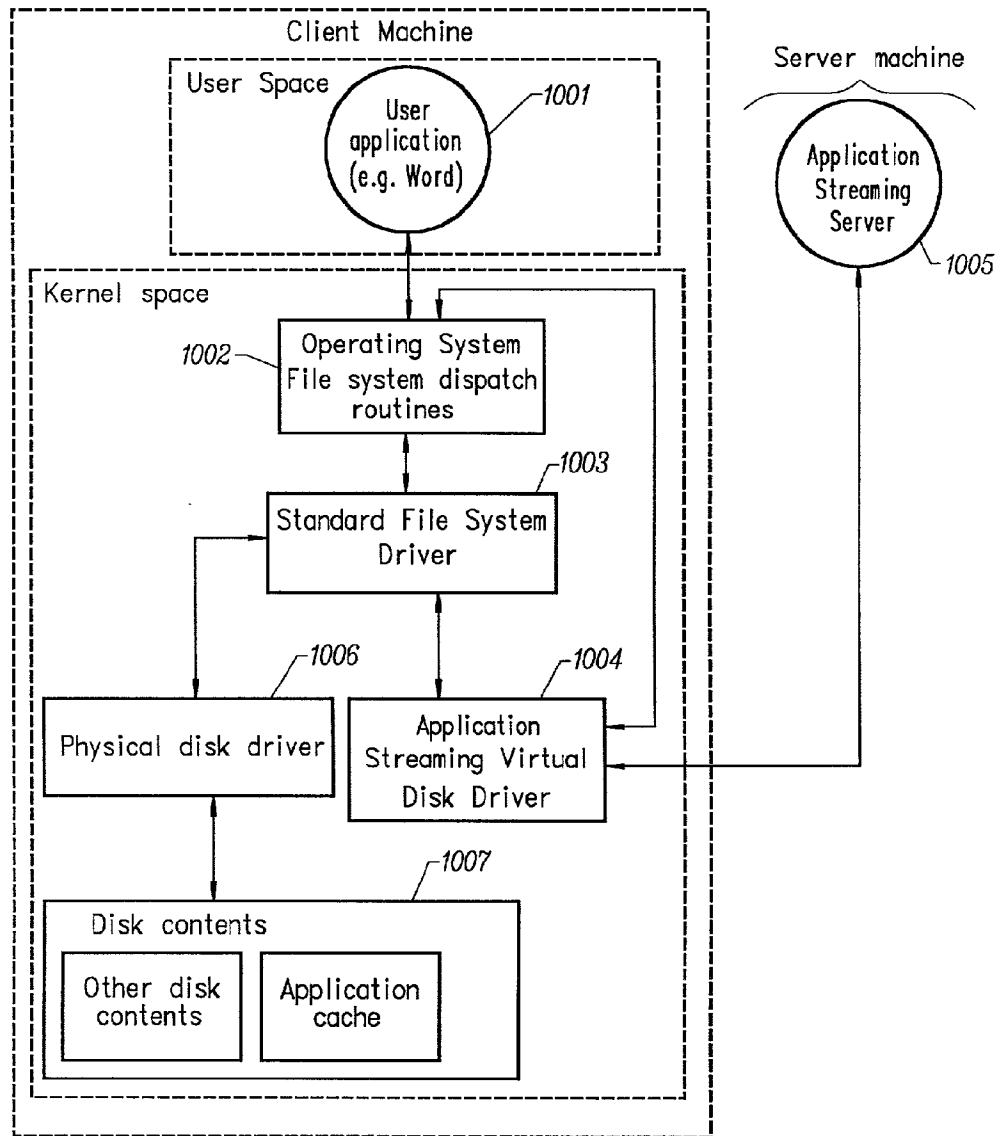


FIG. 10

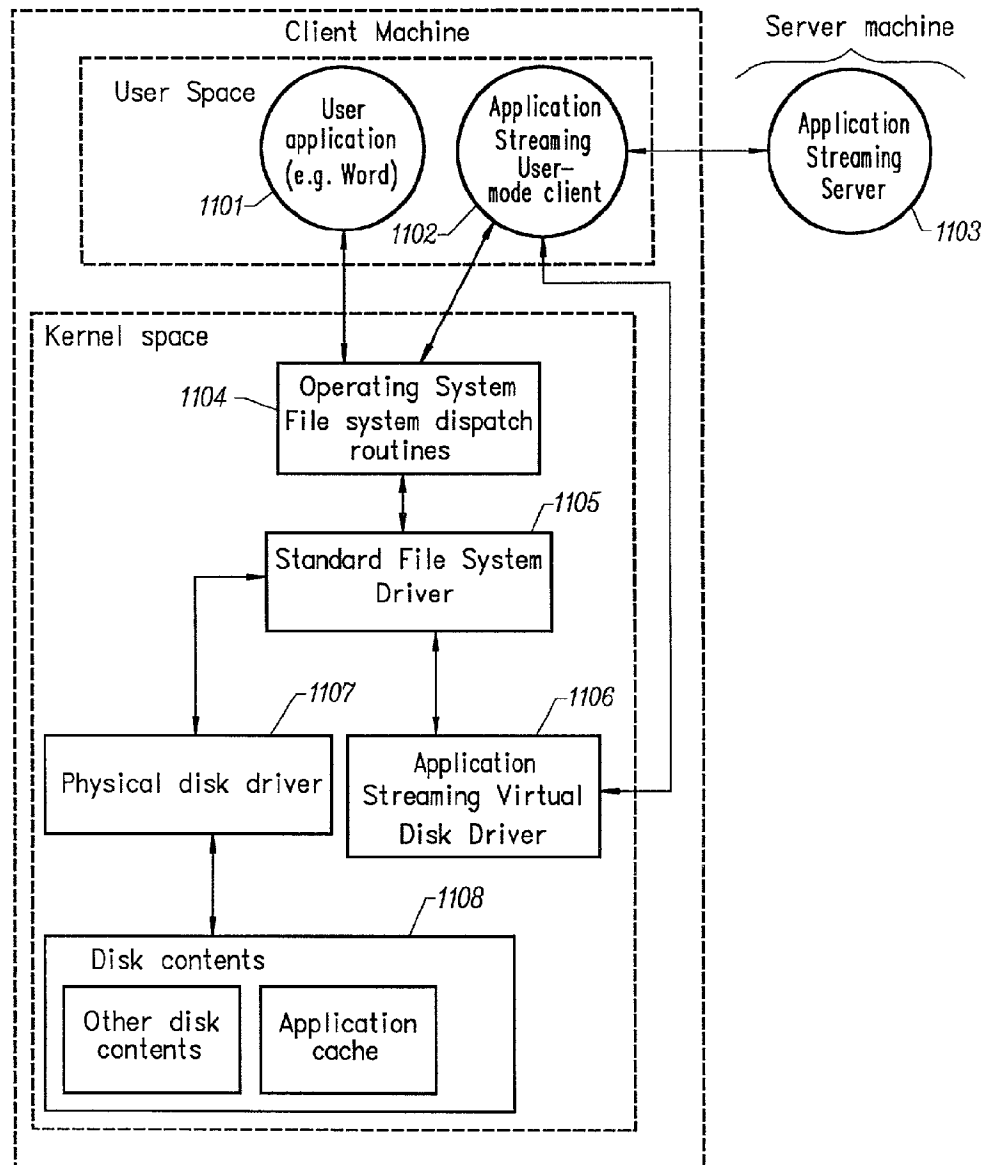


FIG. 11

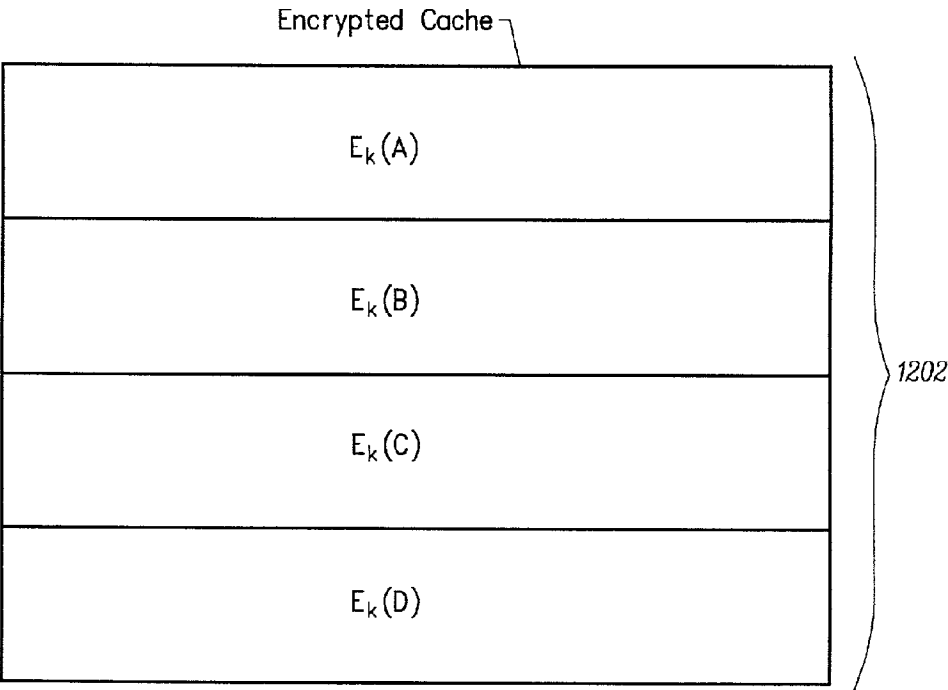
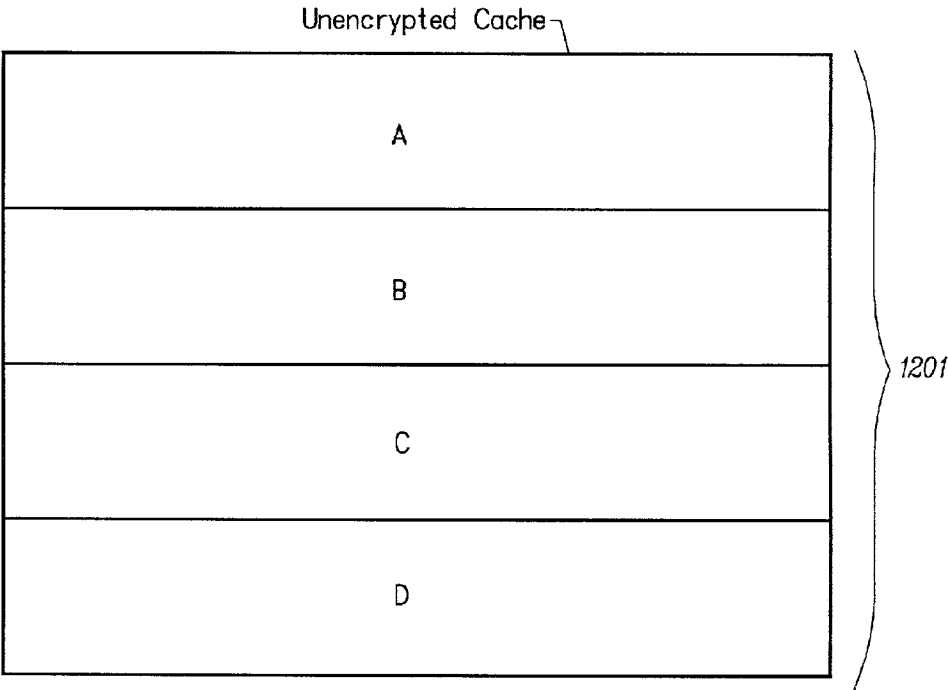


FIG. 12

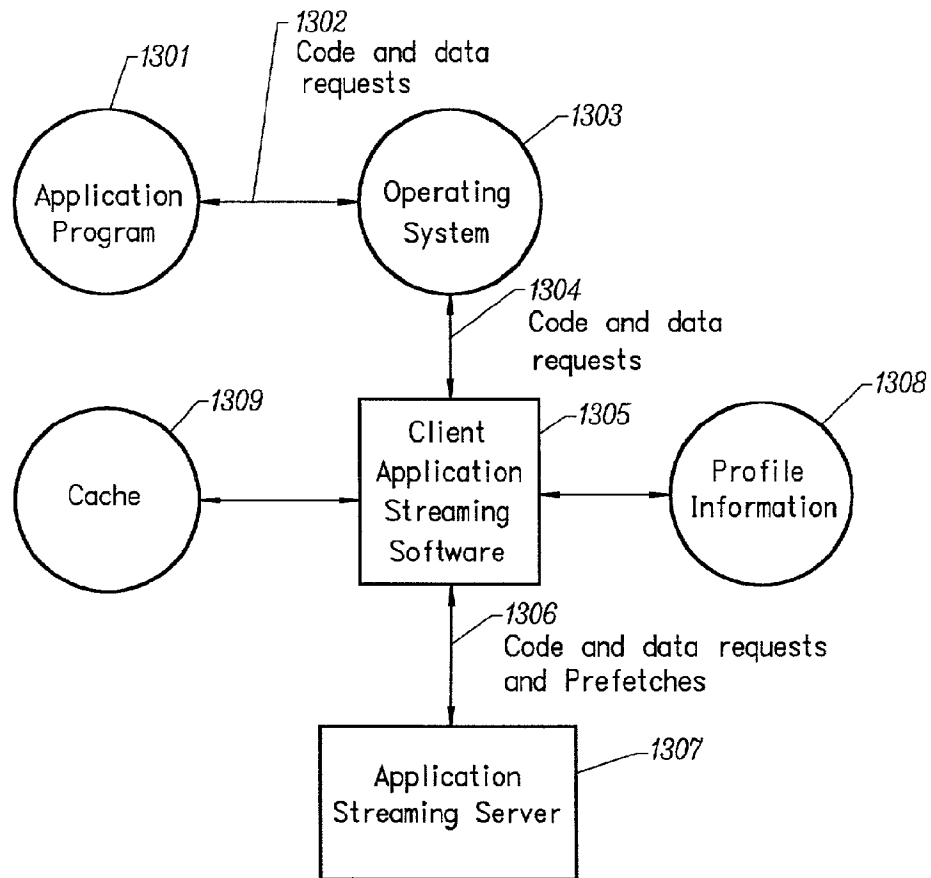


FIG. 13

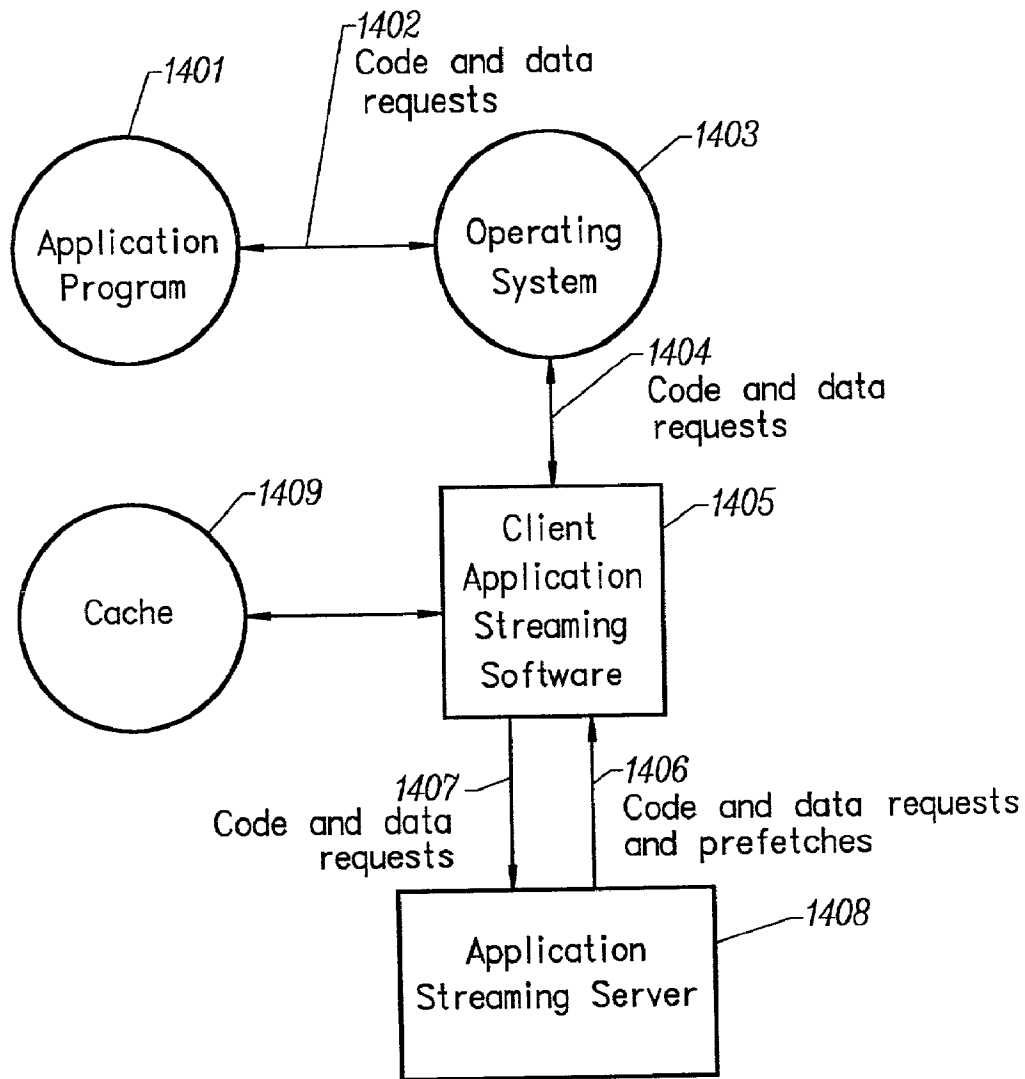


FIG. 14

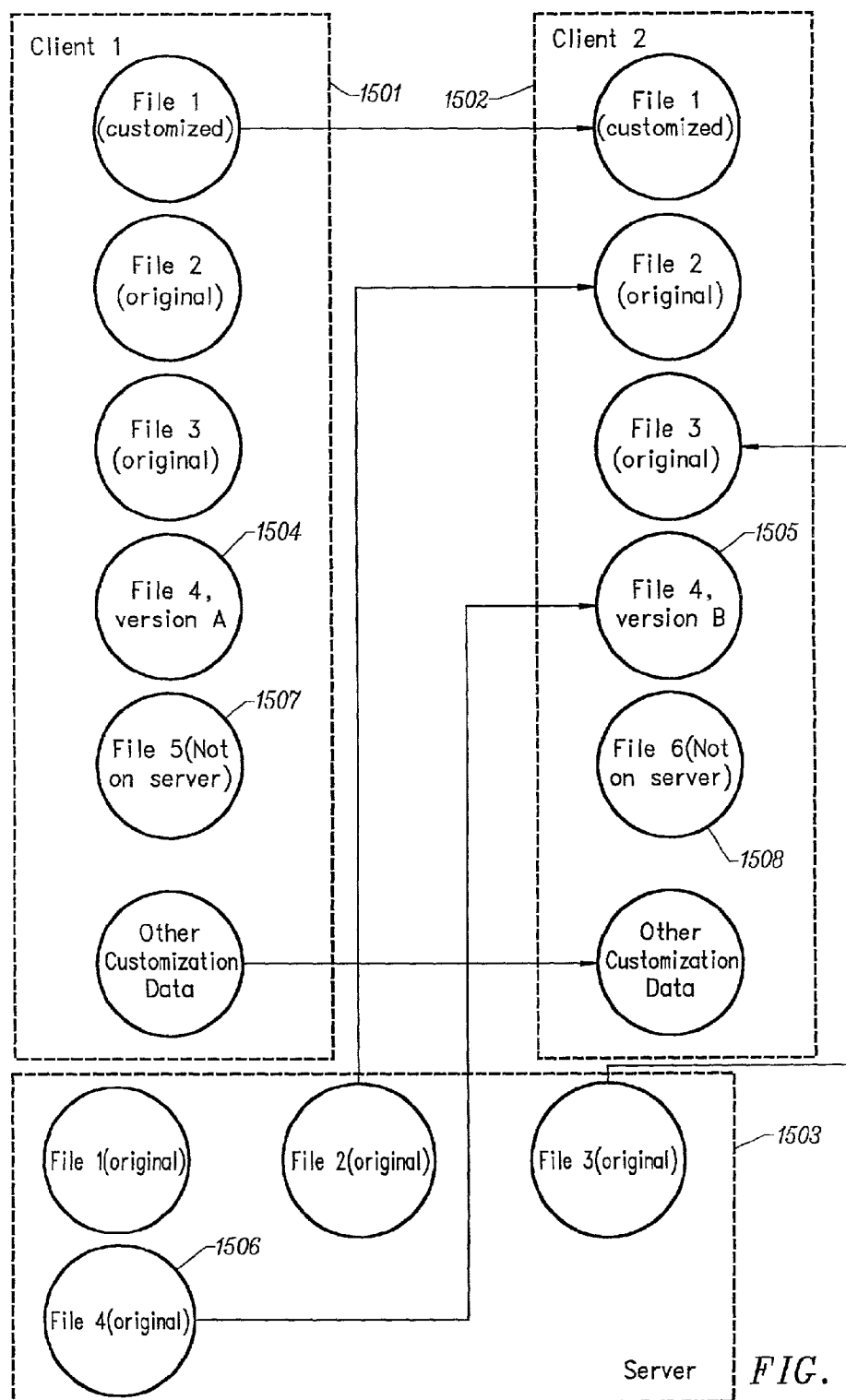


FIG. 15

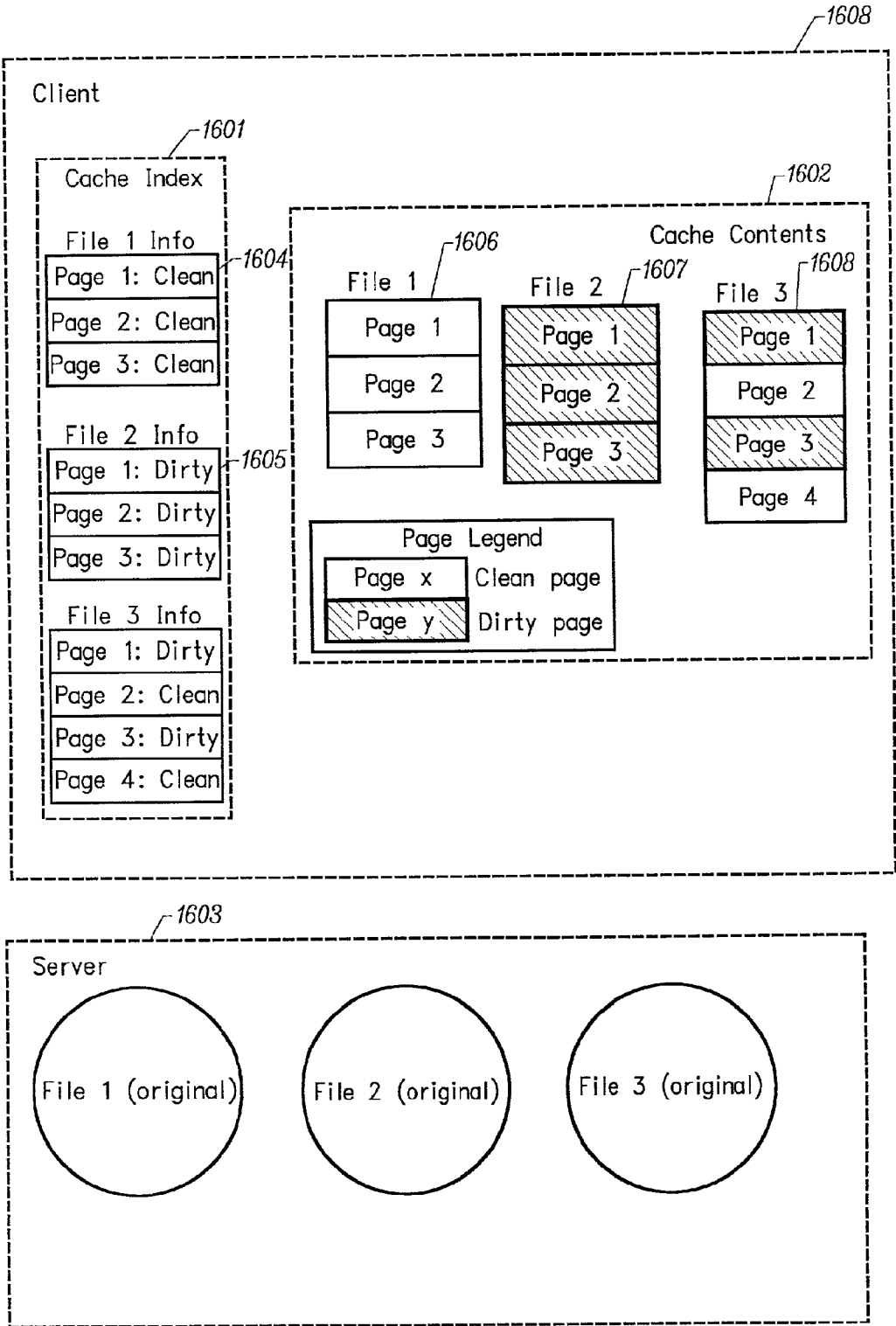


FIG. 16

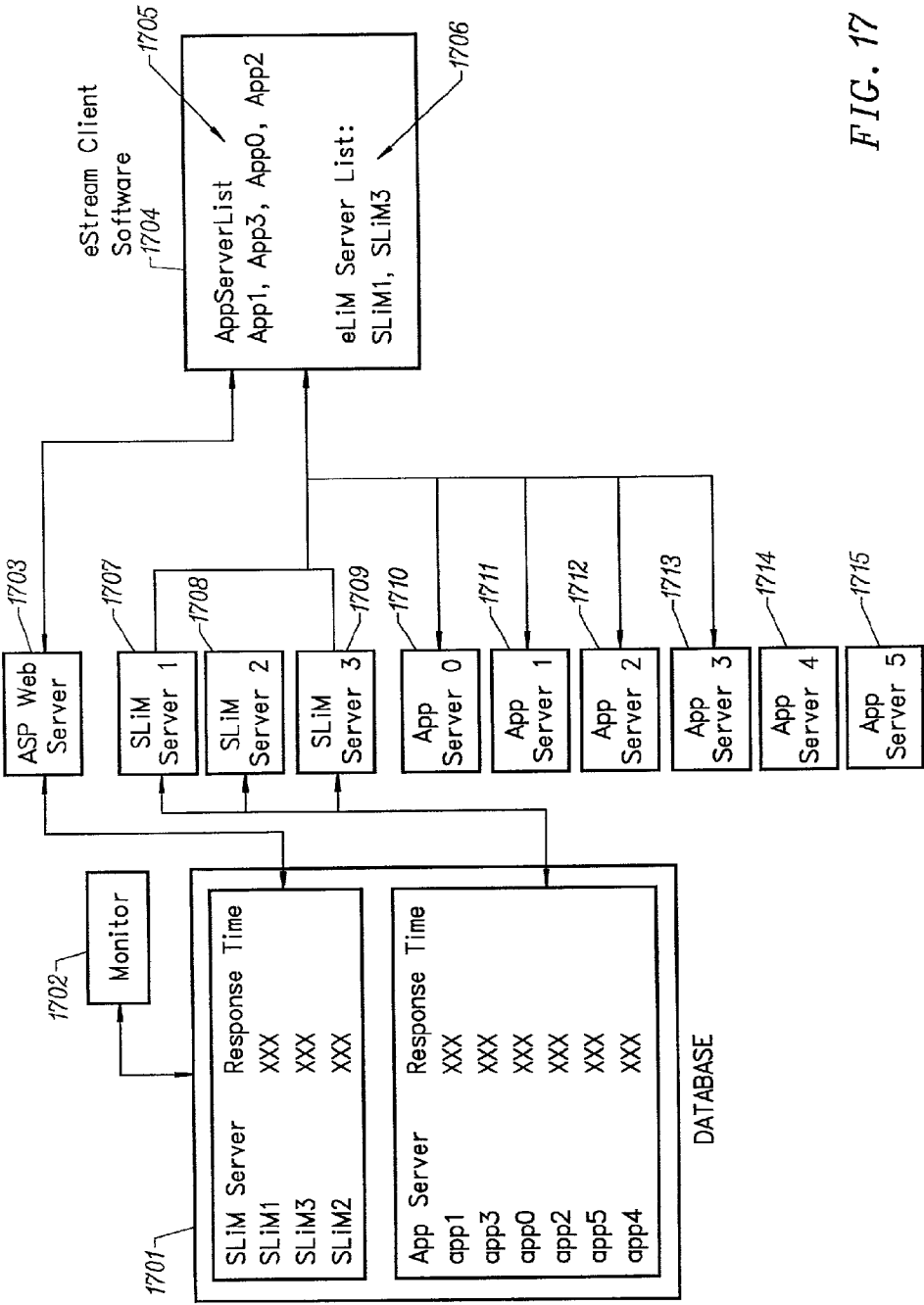
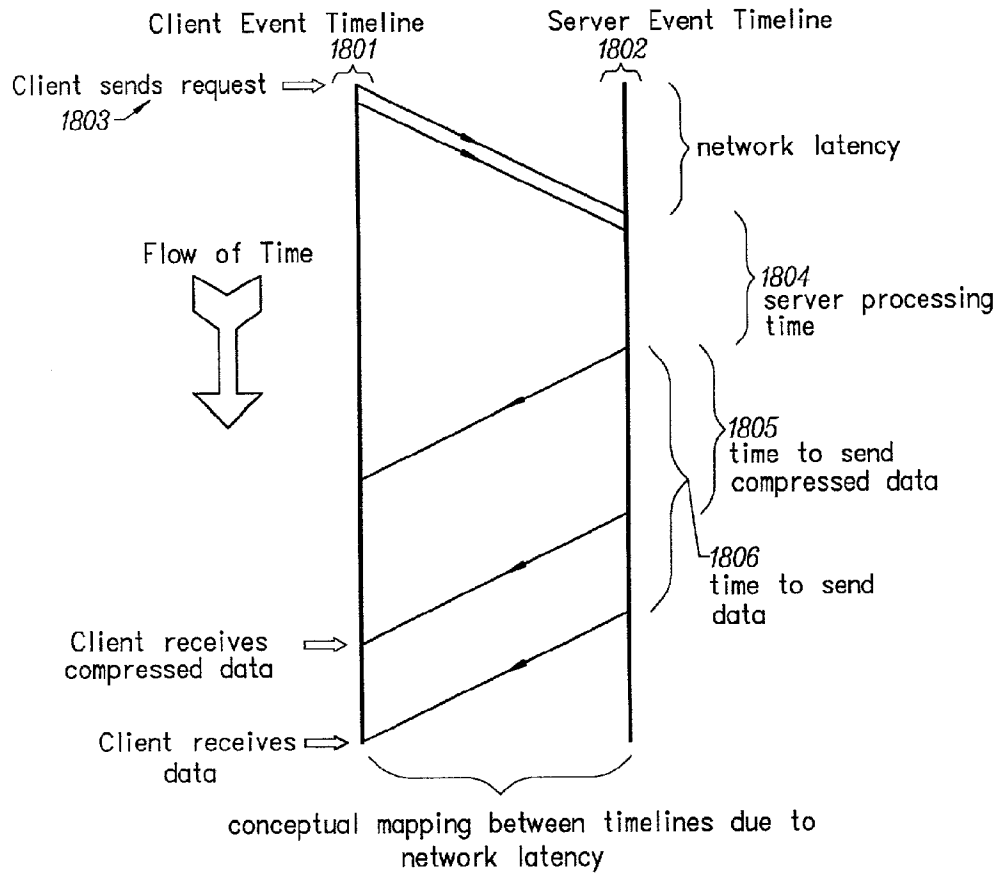


FIG. 17



Client receives data sooner if it is compressed

FIG. 18

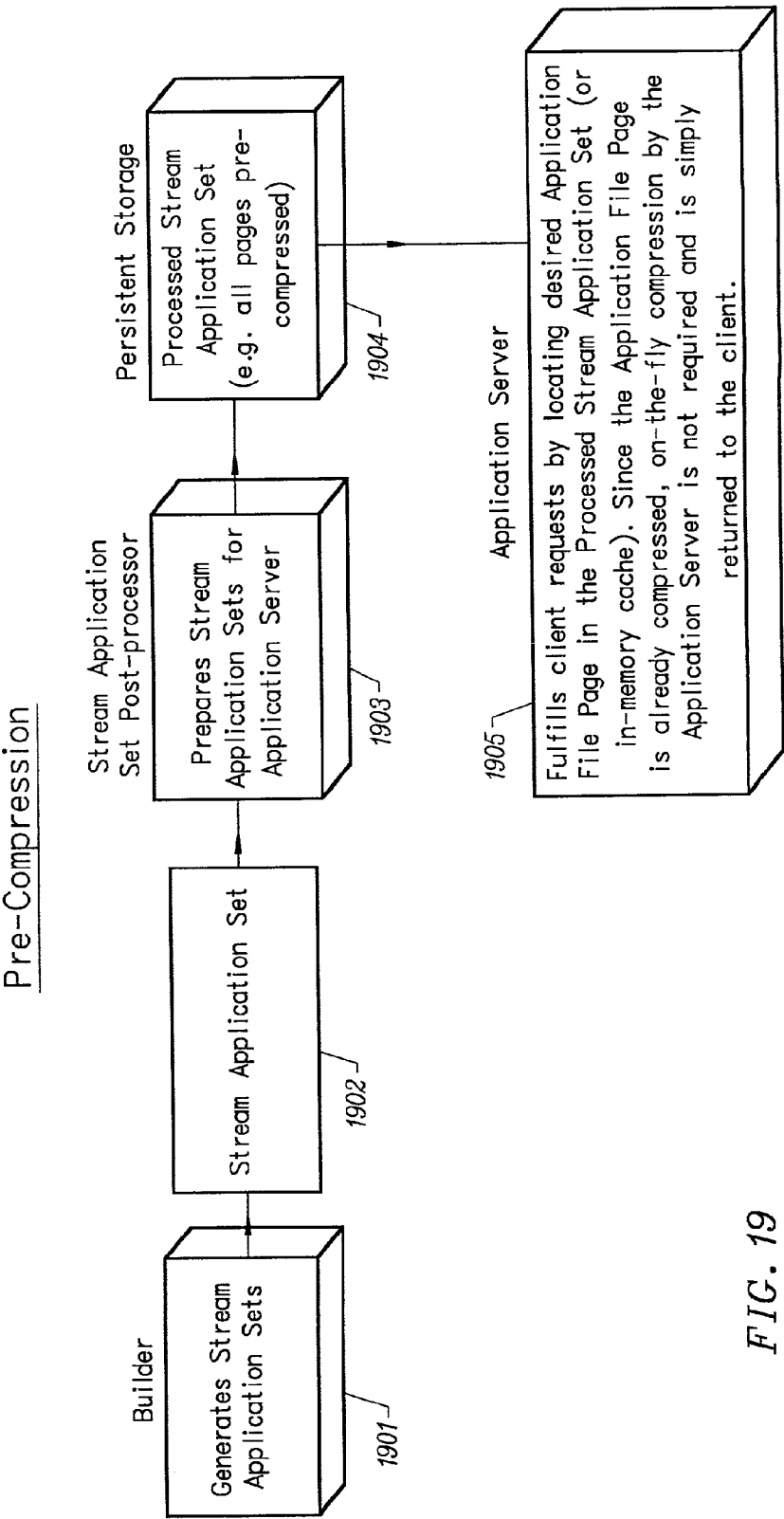
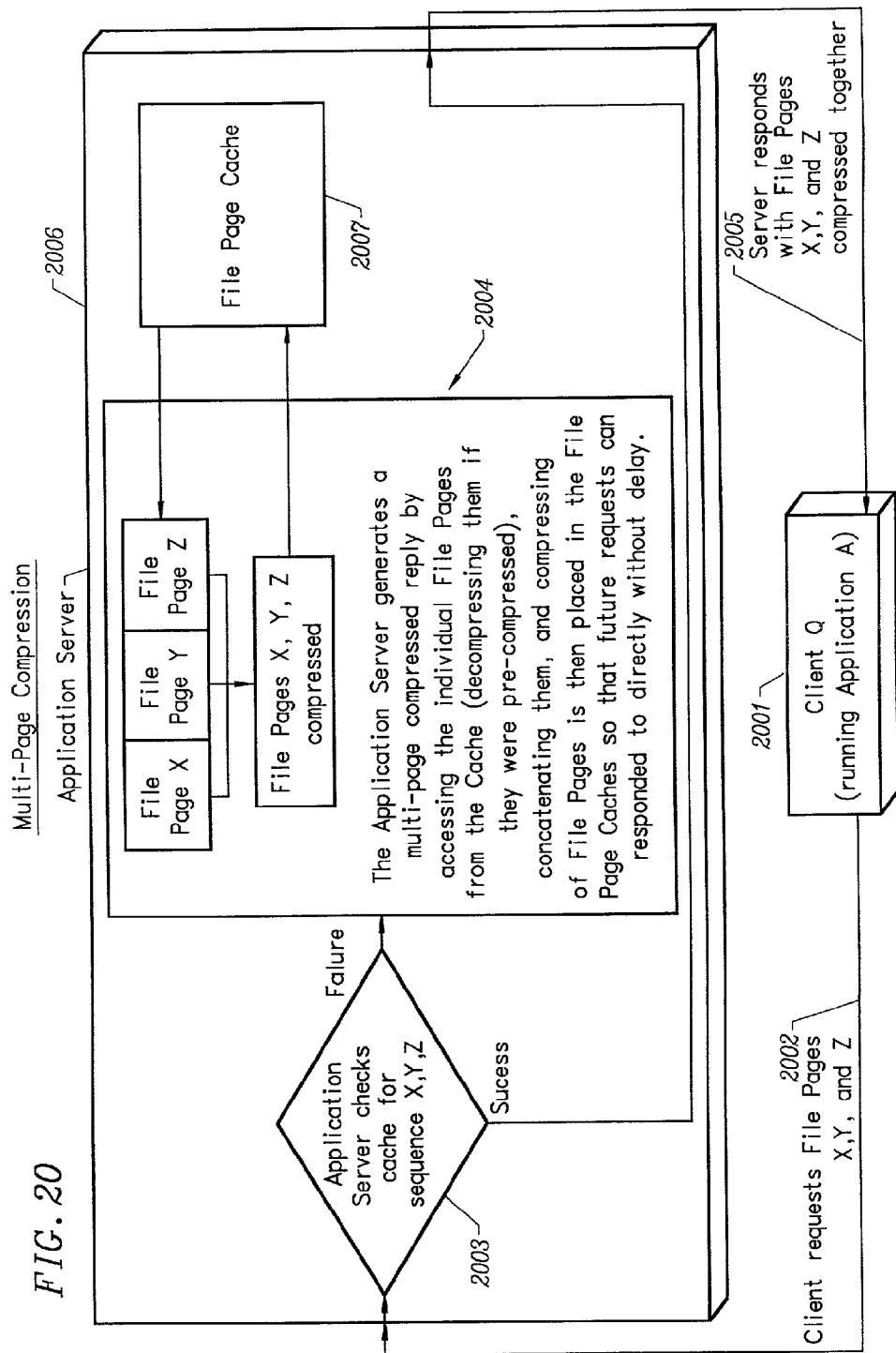
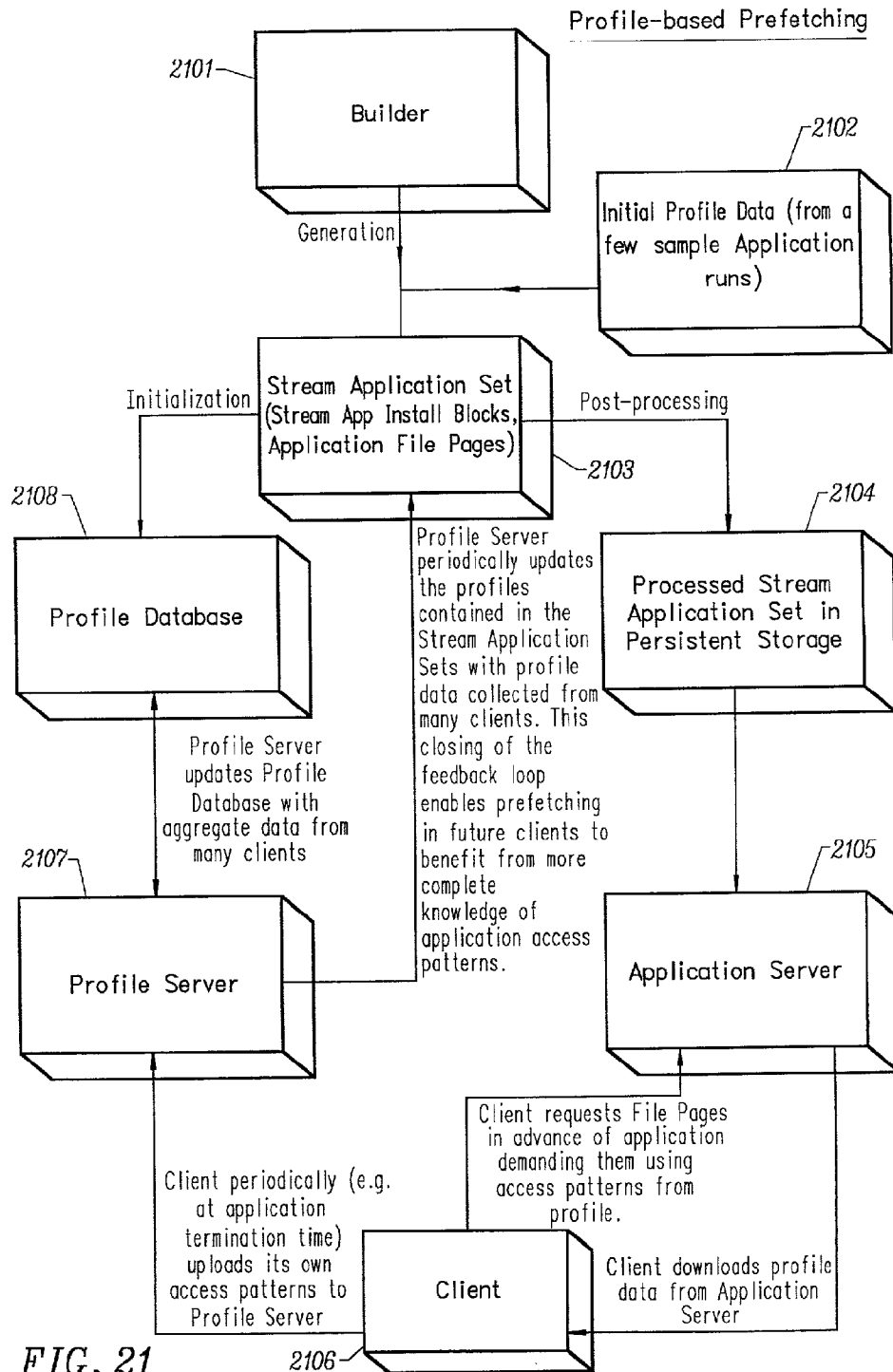


FIG. 19





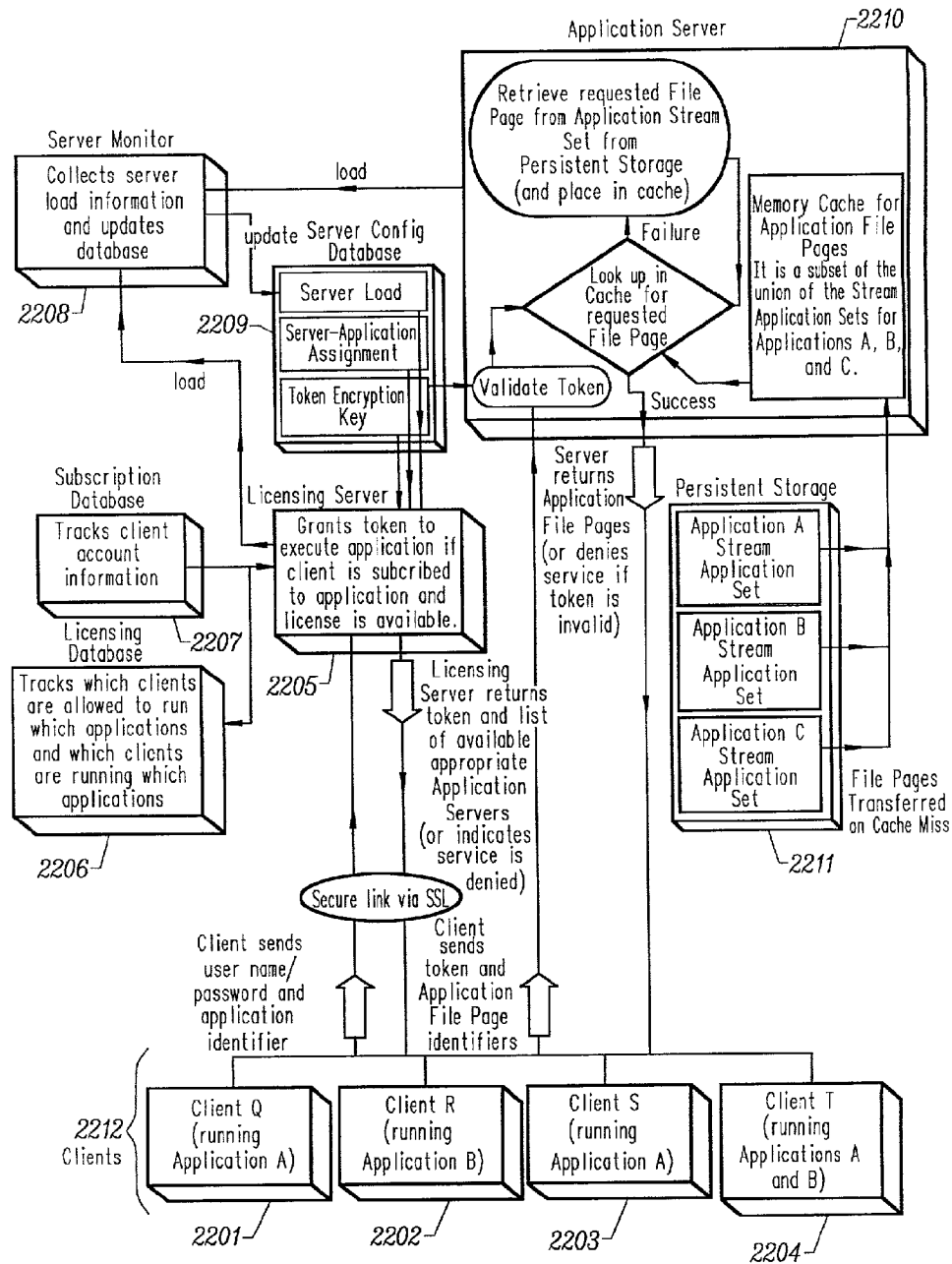


FIG. 22

Builder Install Monitor (IM) Control Flow Diagram

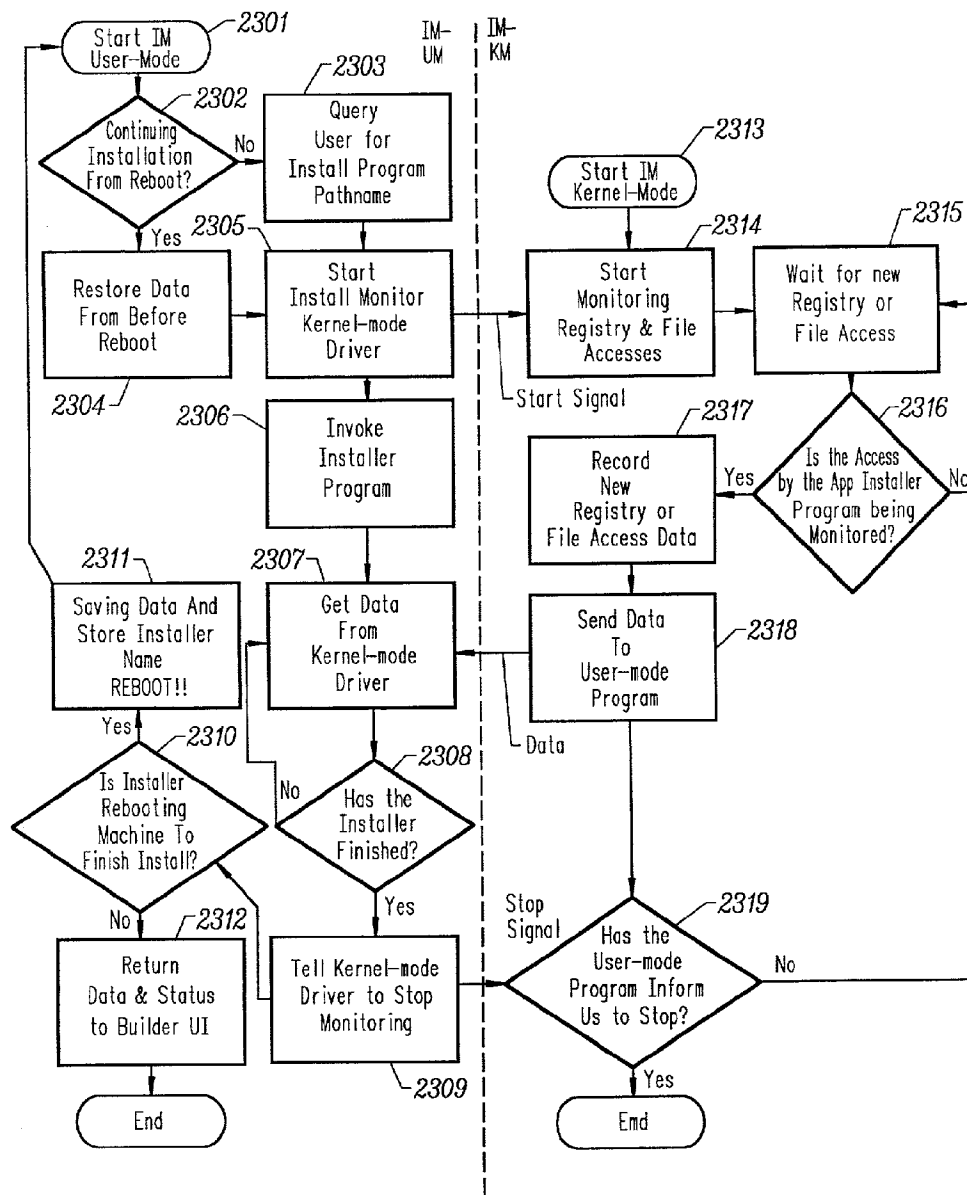


FIG. 23

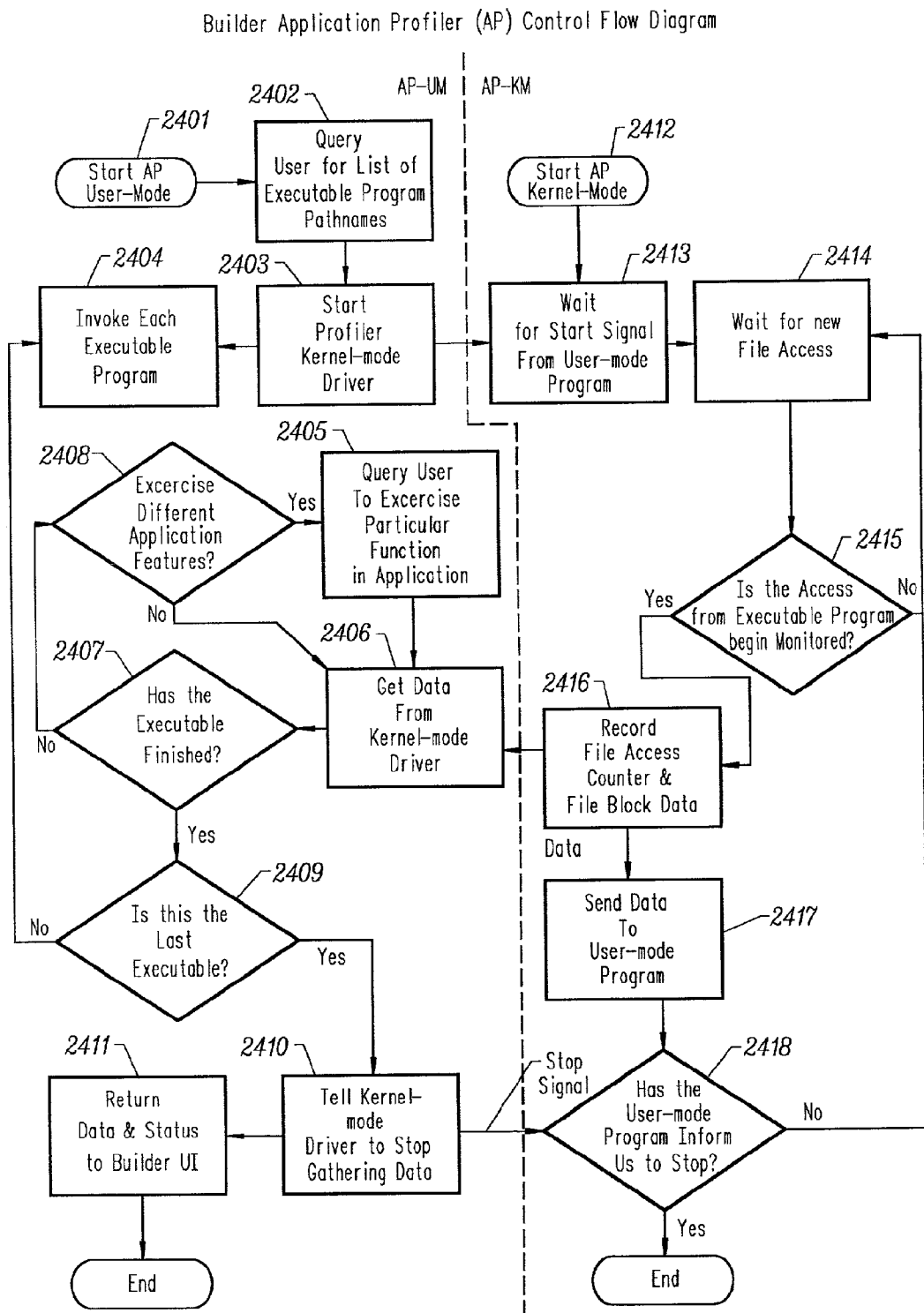


FIG. 24

Builder SAS Packager (SP) Control Flow Diagram

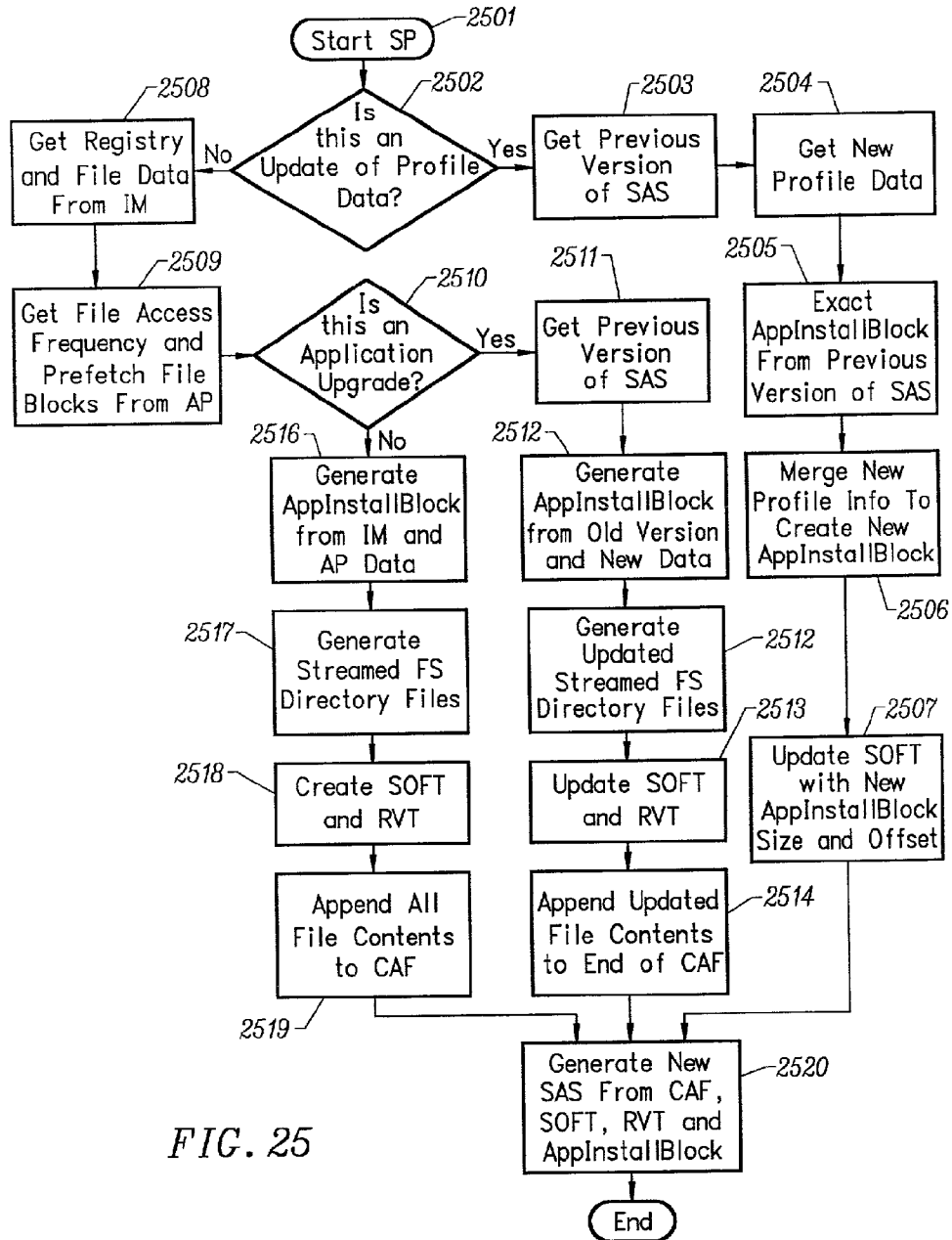


FIG. 25

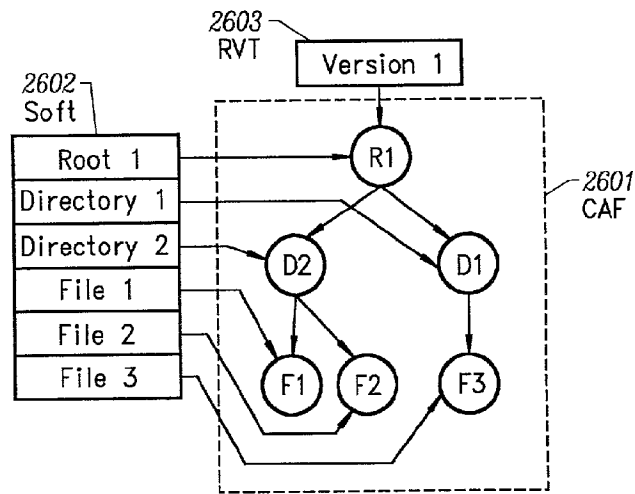


FIG. 26A

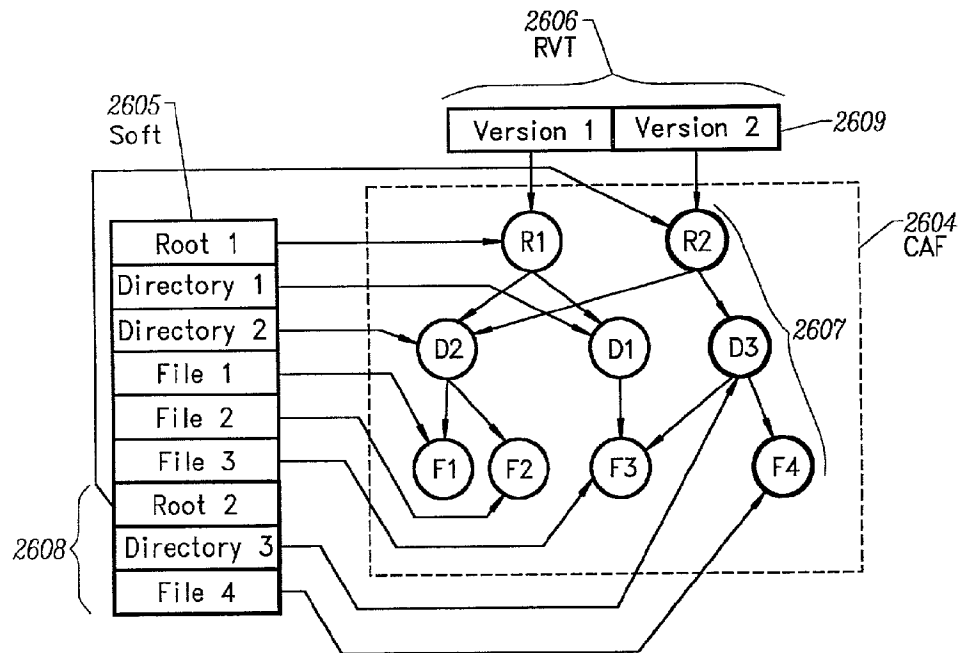
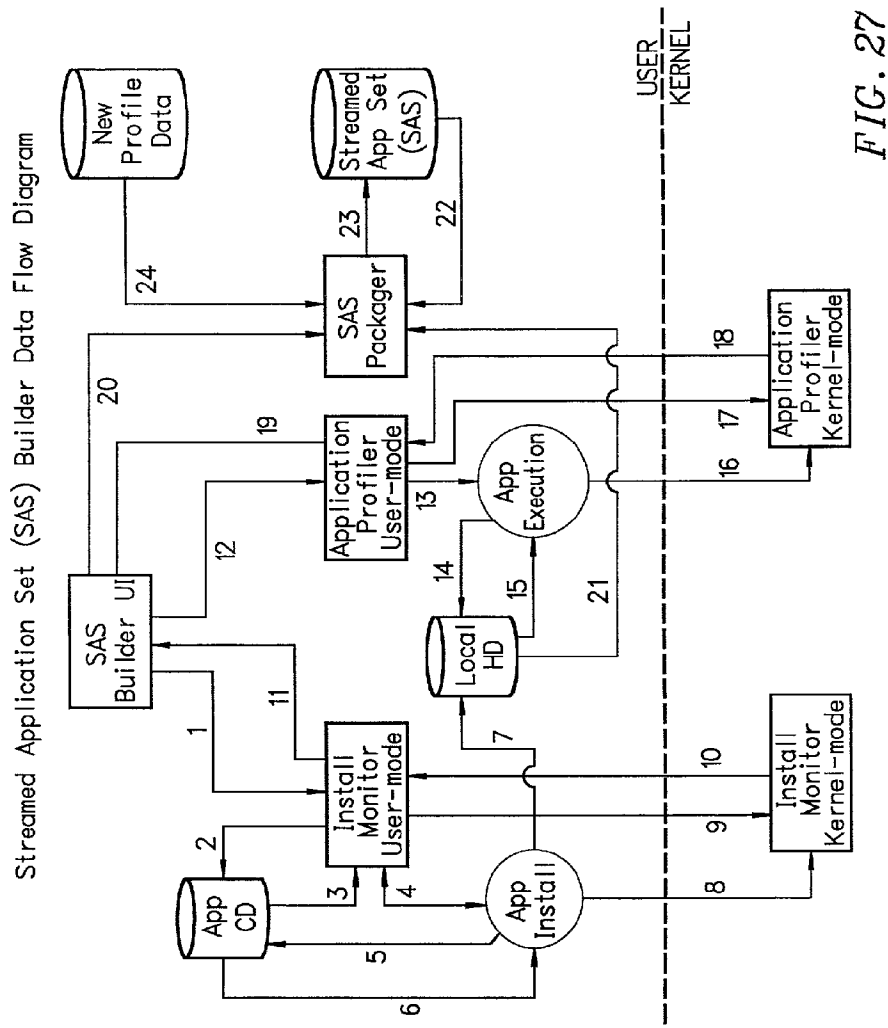


FIG. 26B



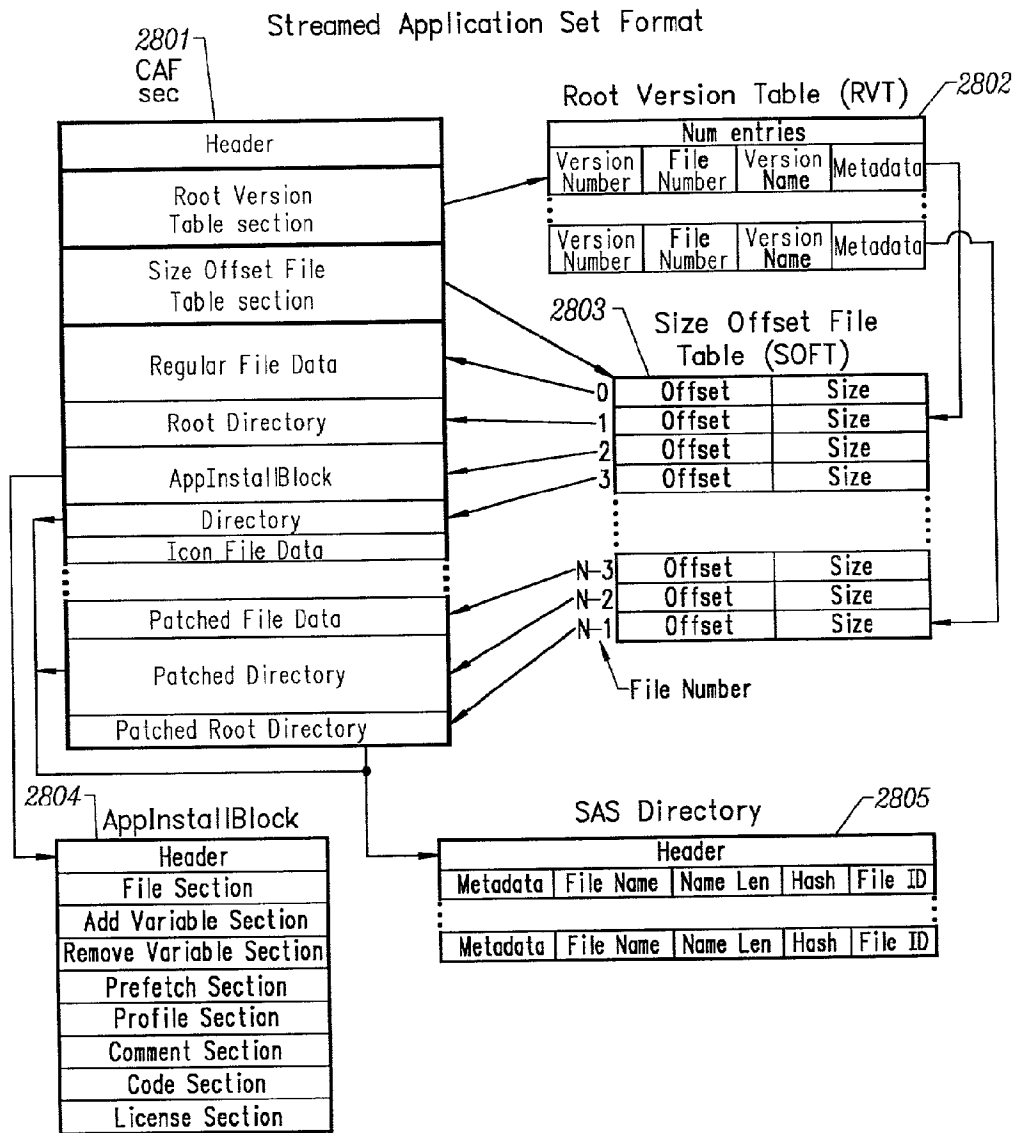


FIG. 28

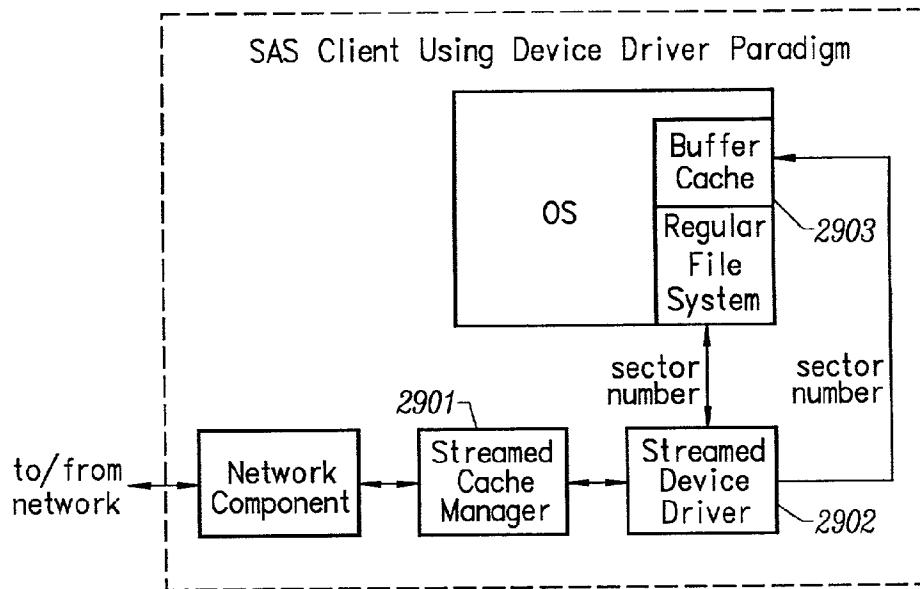


FIG. 29

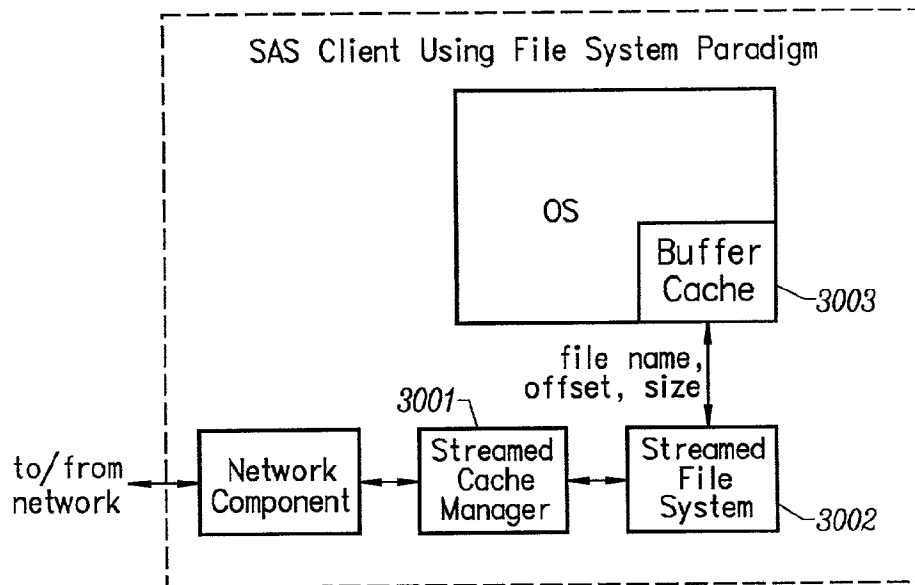


FIG. 30

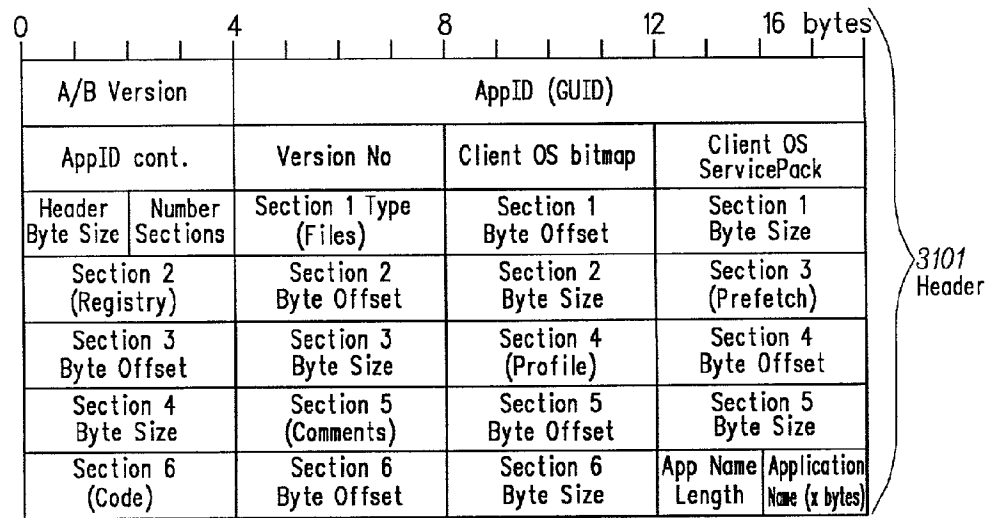


FIG. 31A

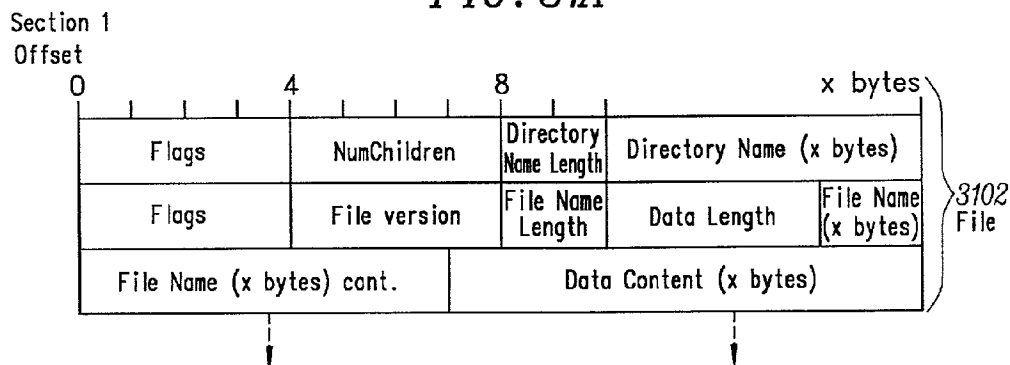


FIG. 31B

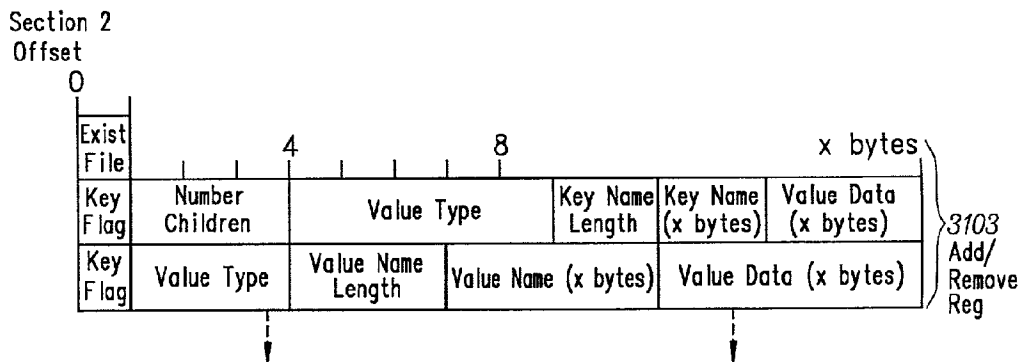


FIG. 31C

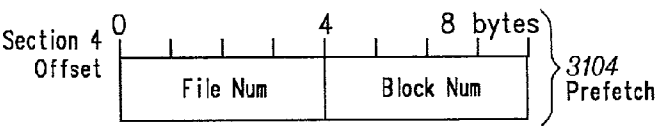


FIG. 31D

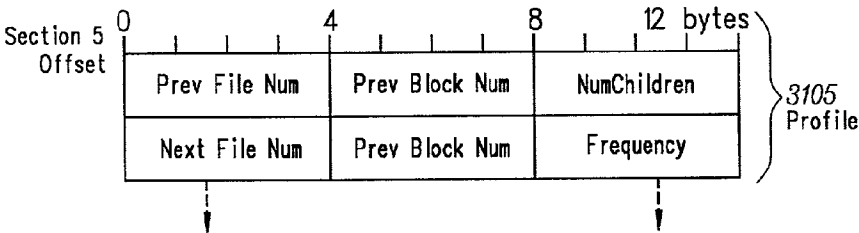


FIG. 31E

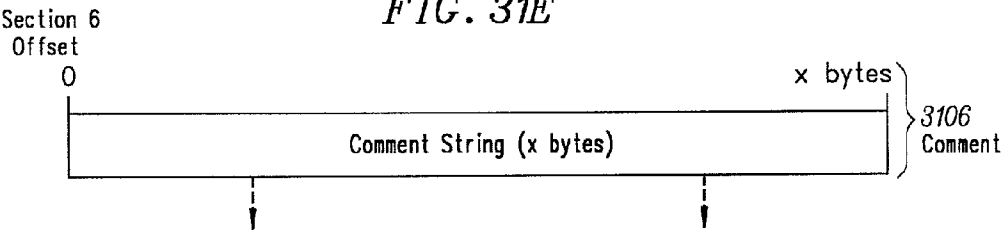


FIG. 31F

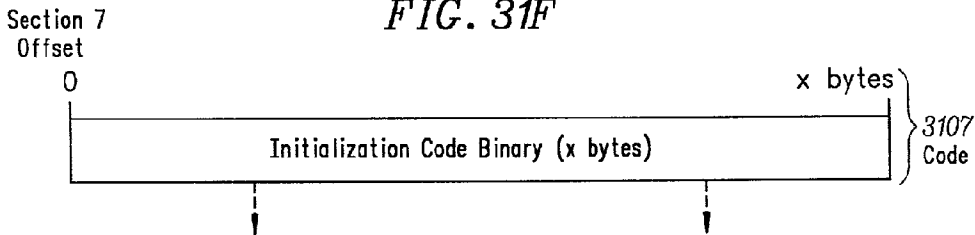


FIG. 31G

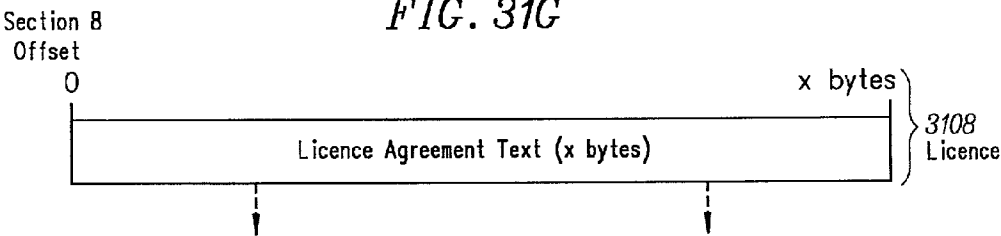


FIG. 31H

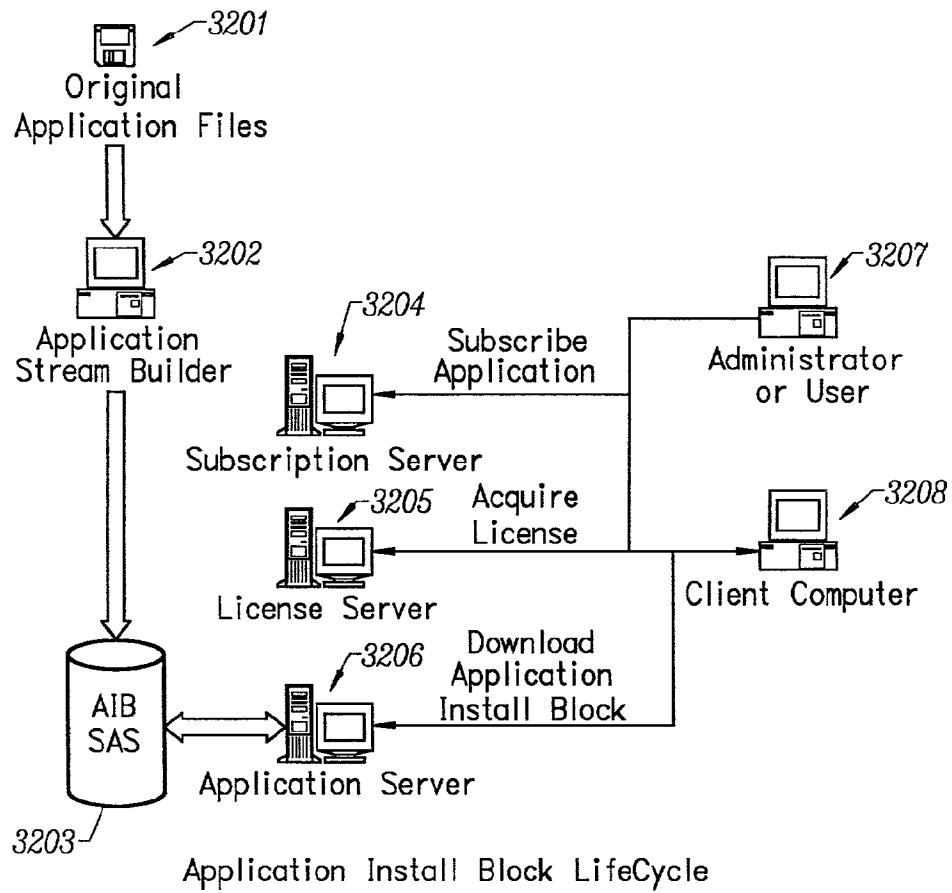


FIG. 32

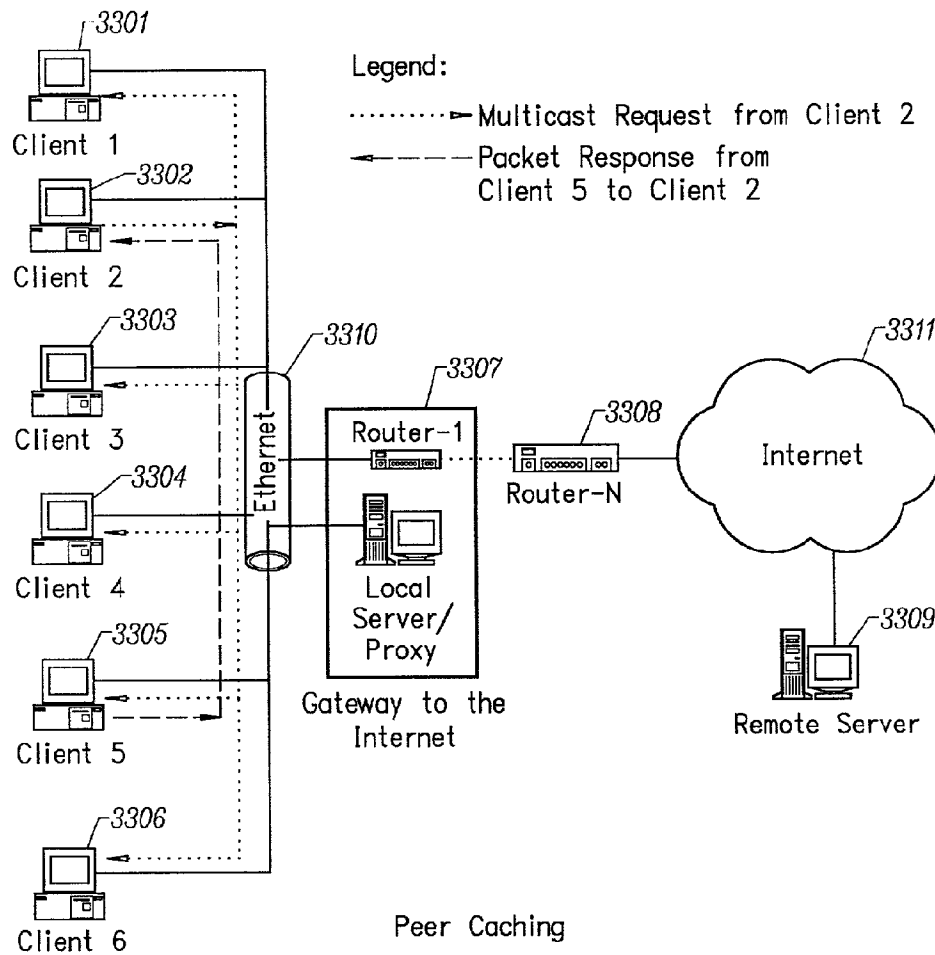


FIG. 33

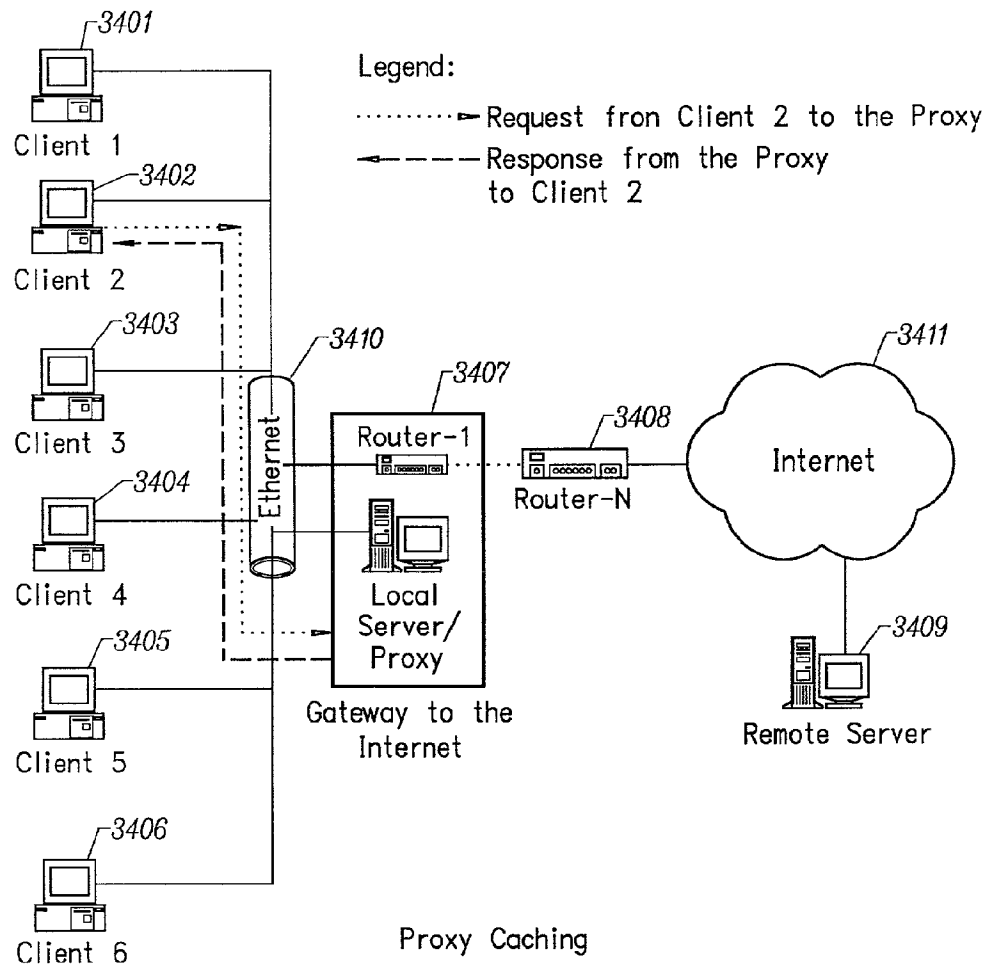


FIG. 34

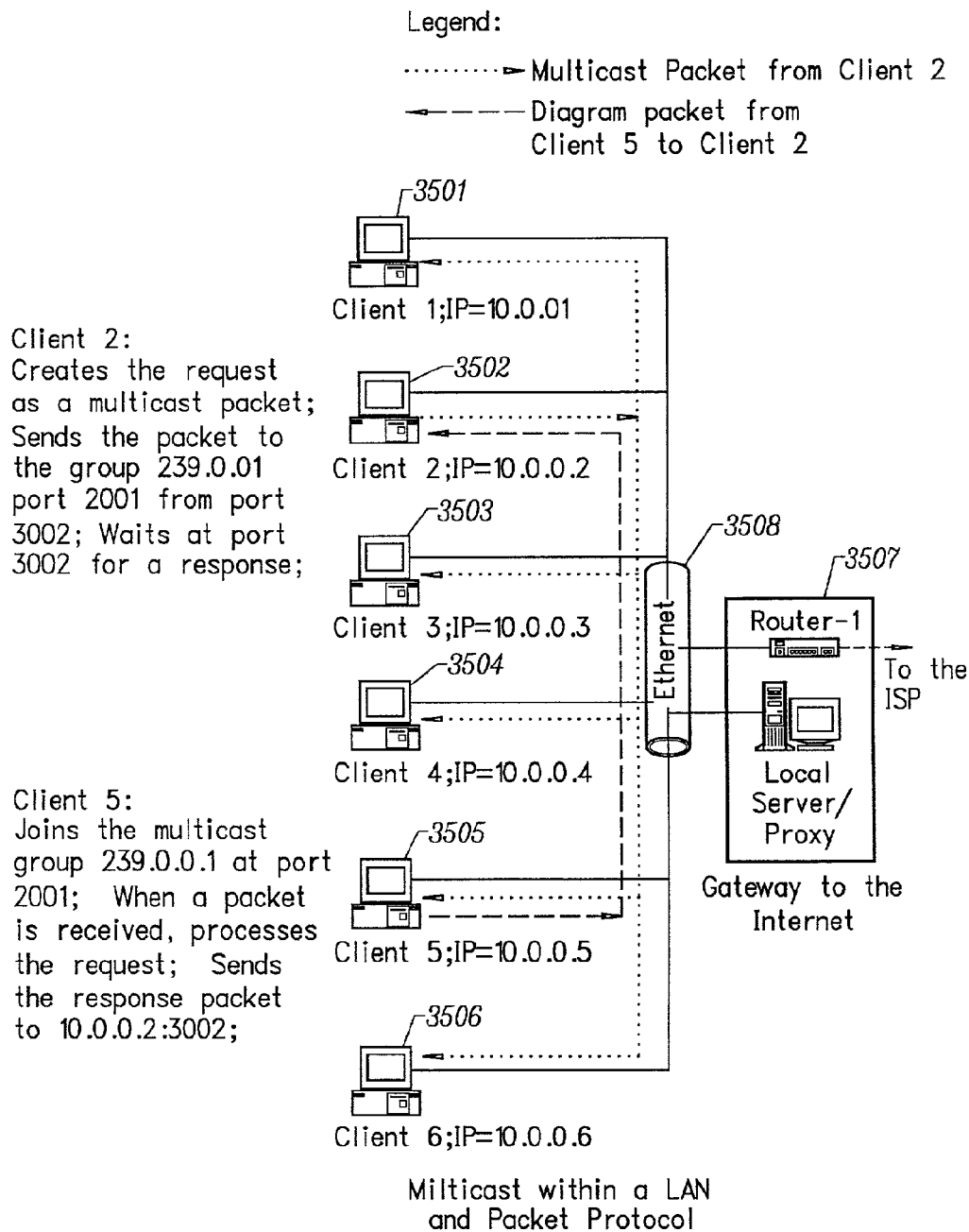


FIG. 35

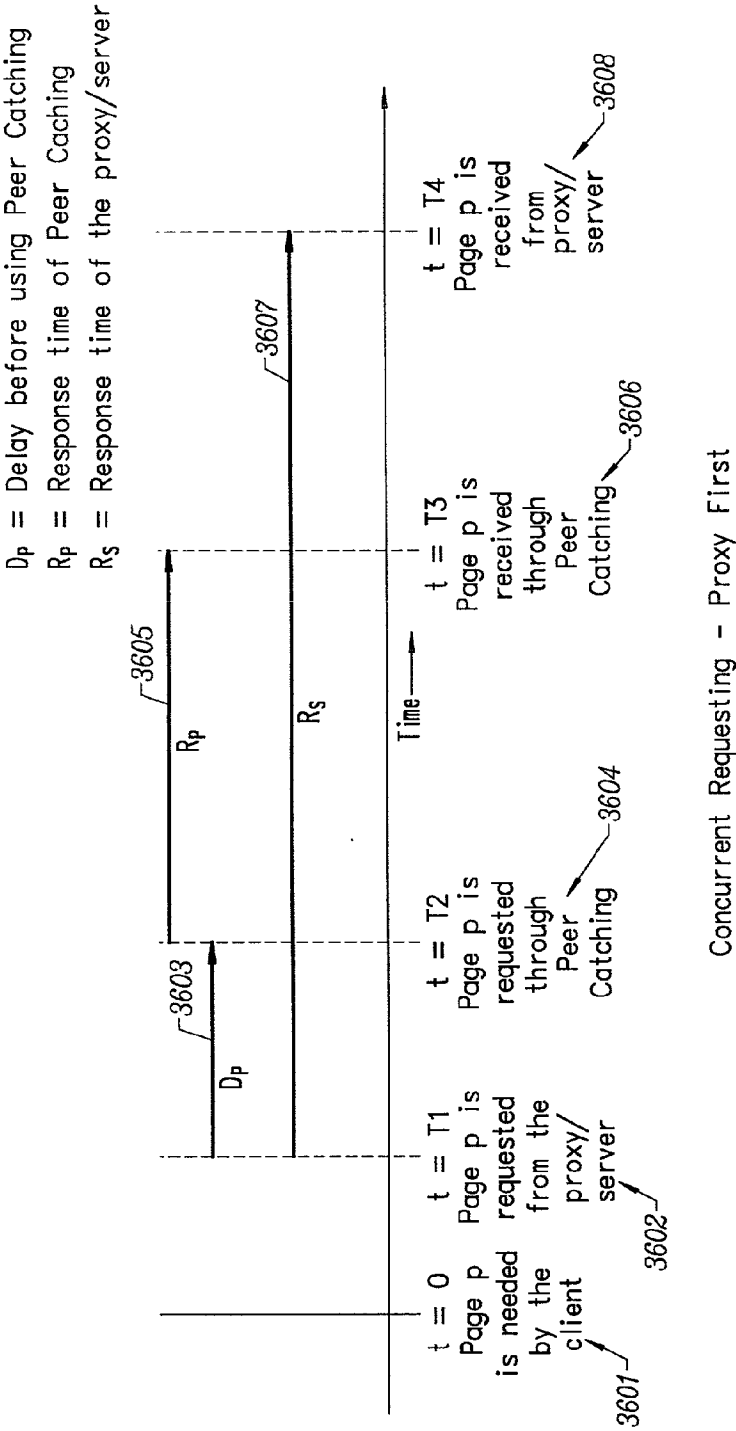


FIG. 36

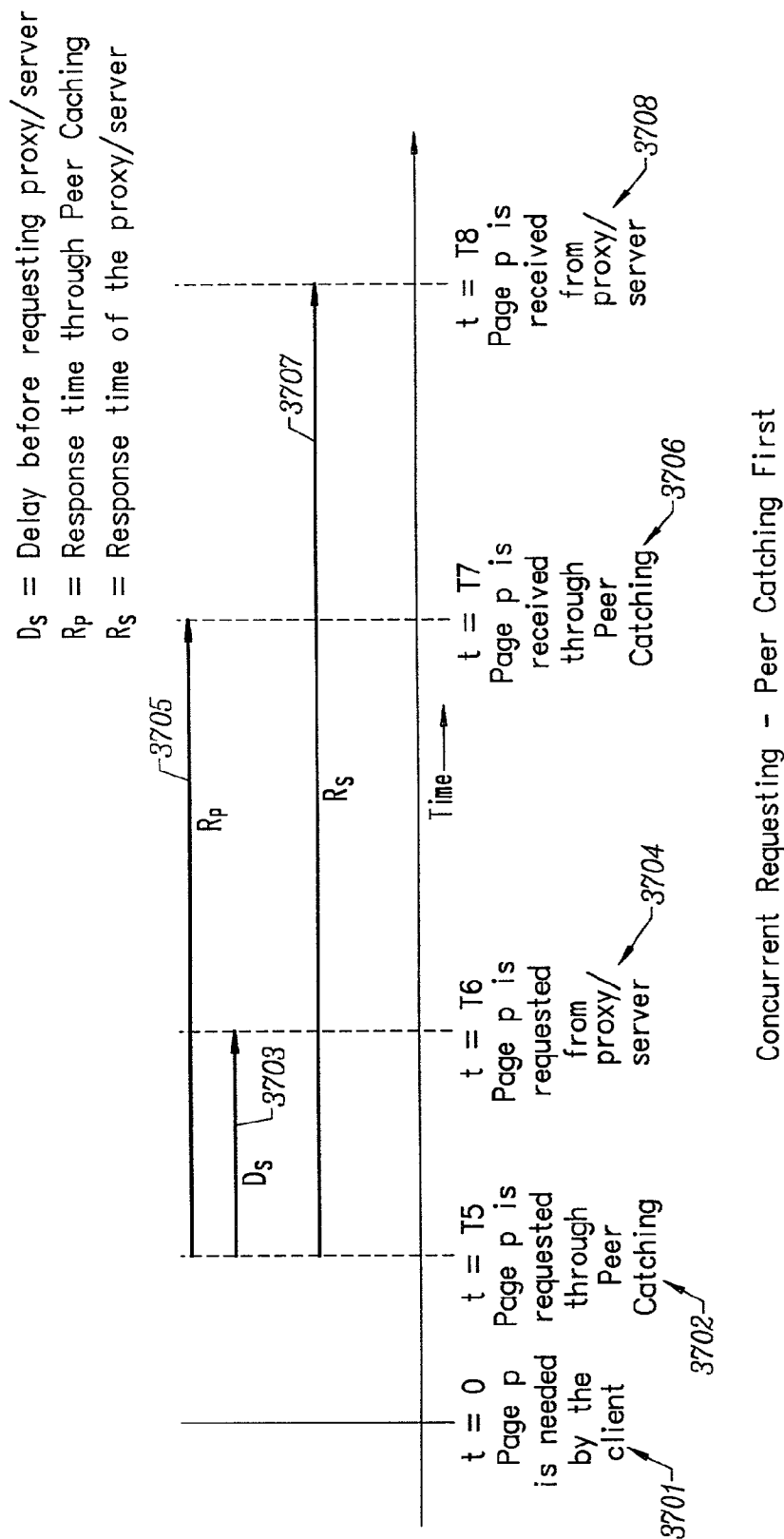


FIG. 37

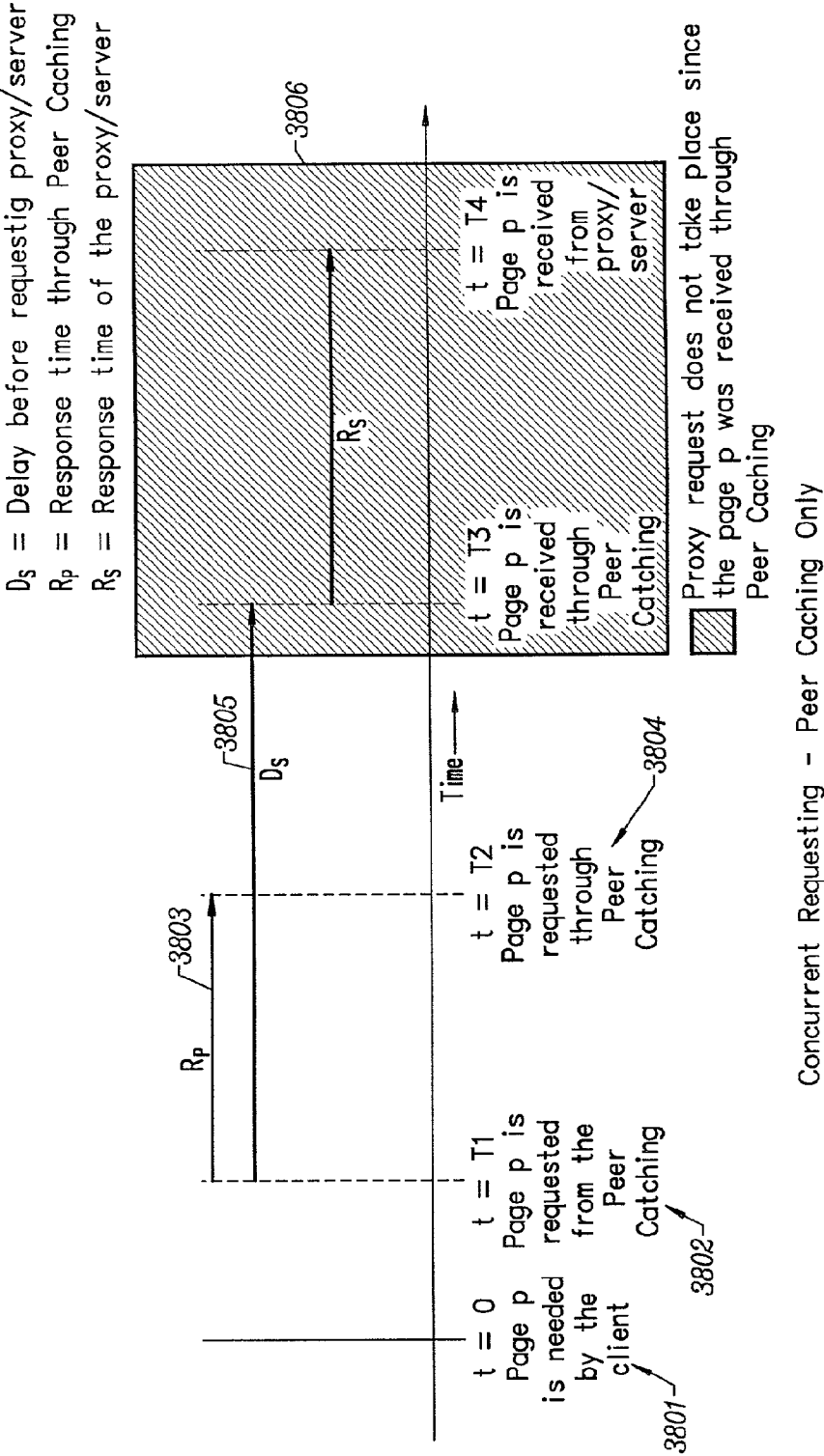
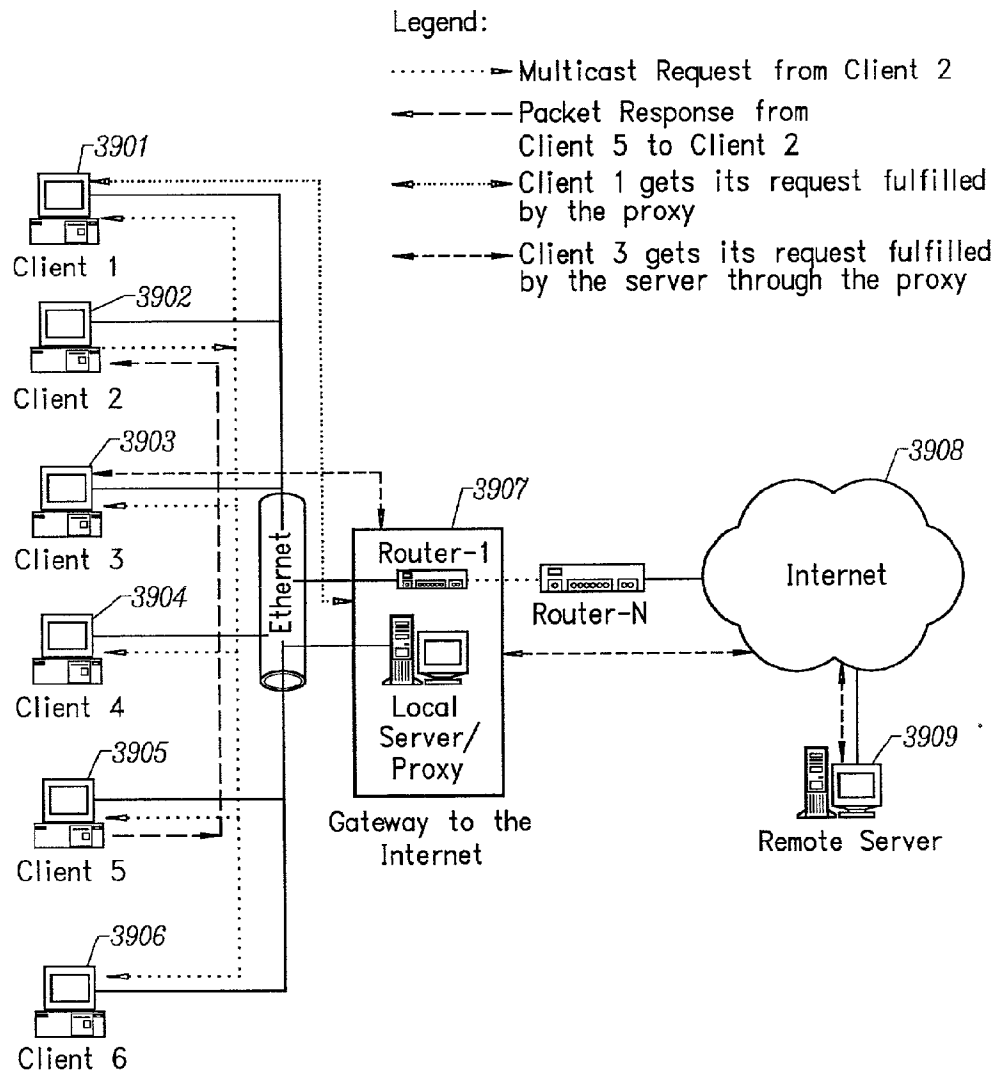


FIG. 38



Client-Server System with Peer and Proxy Caching

FIG. 39

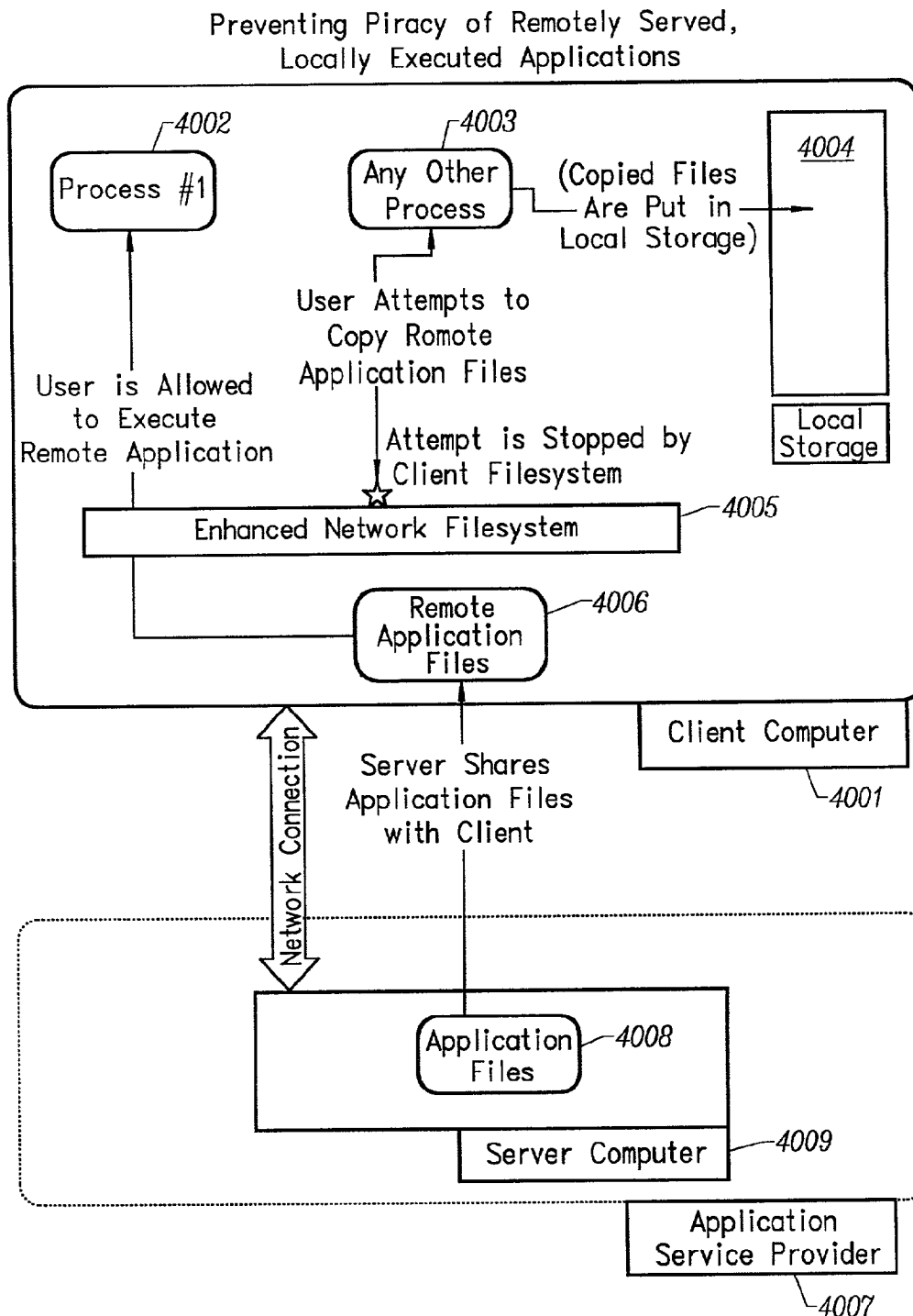


FIG. 40

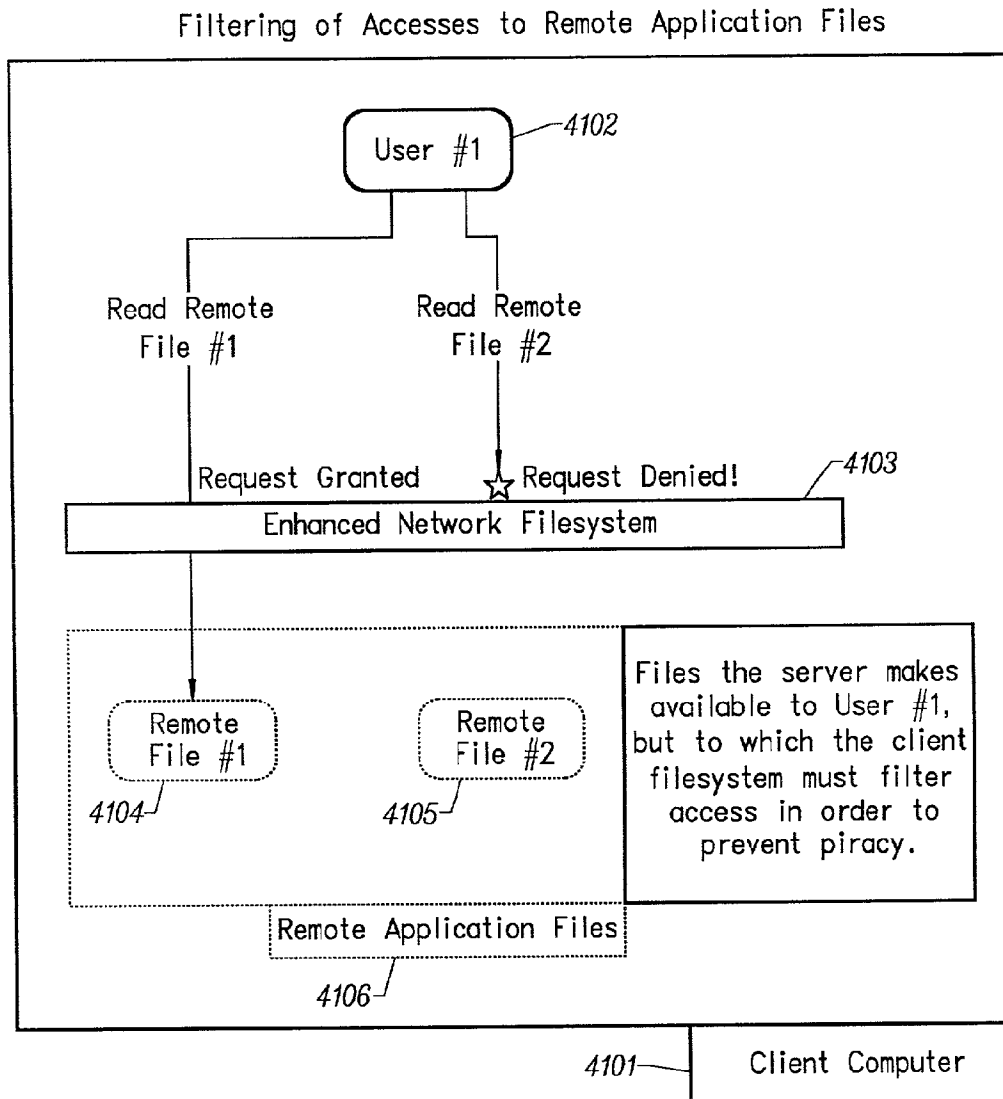


FIG. 41

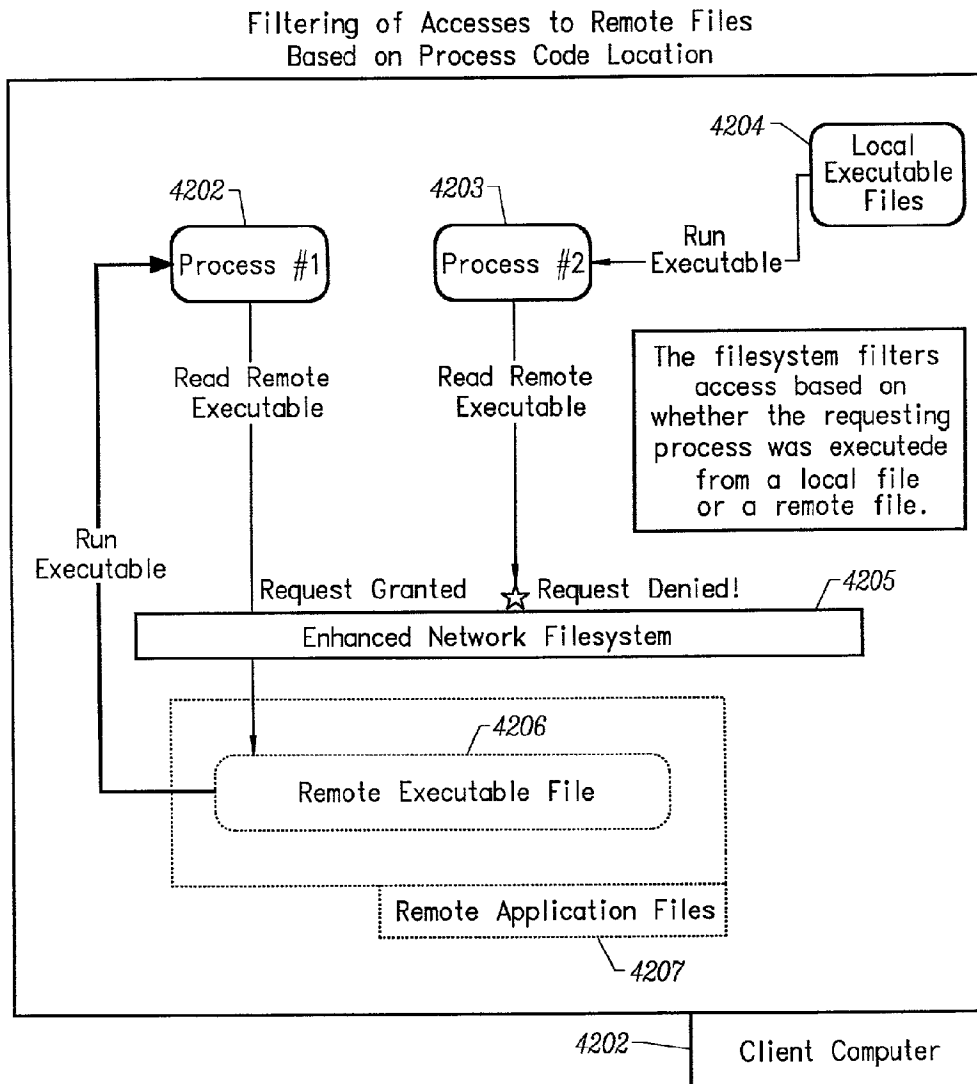


FIG. 42

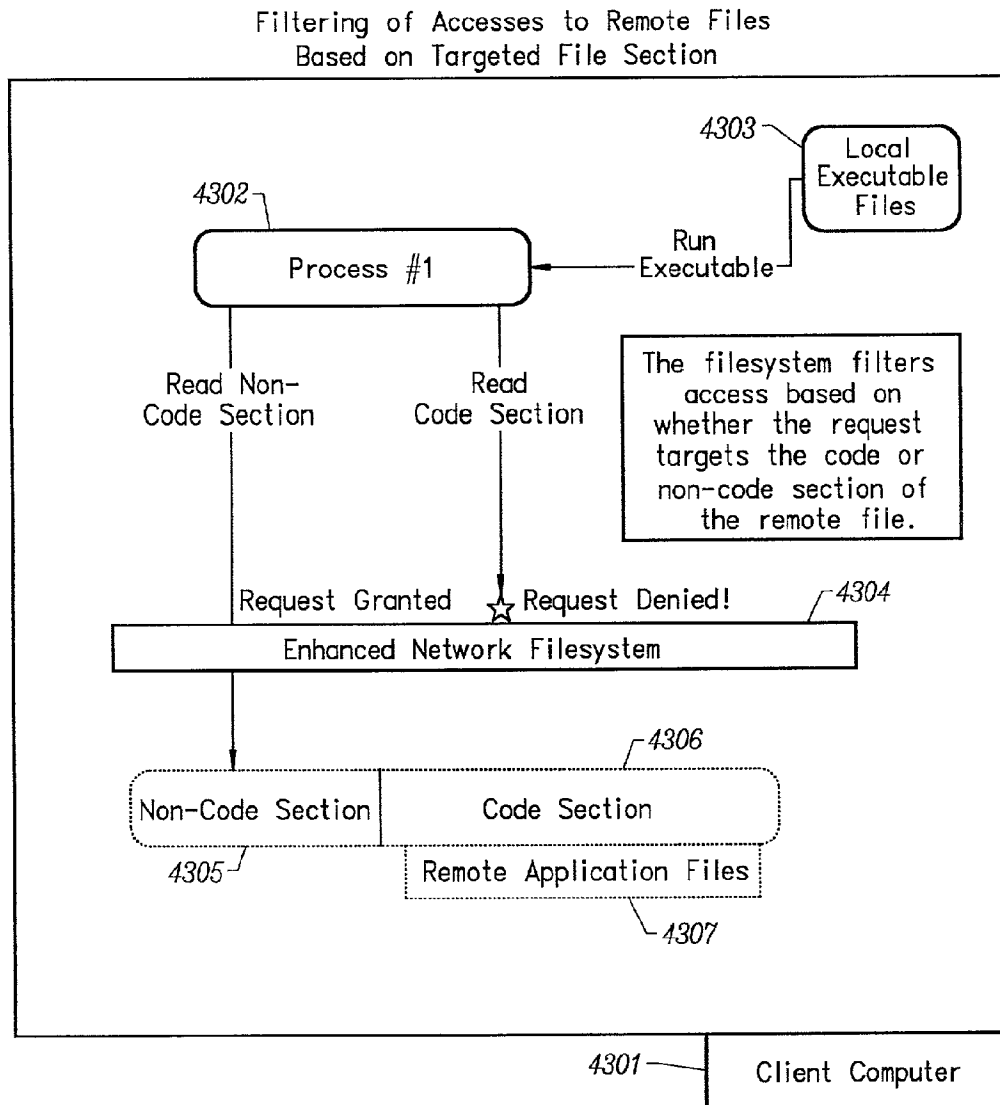


FIG. 43

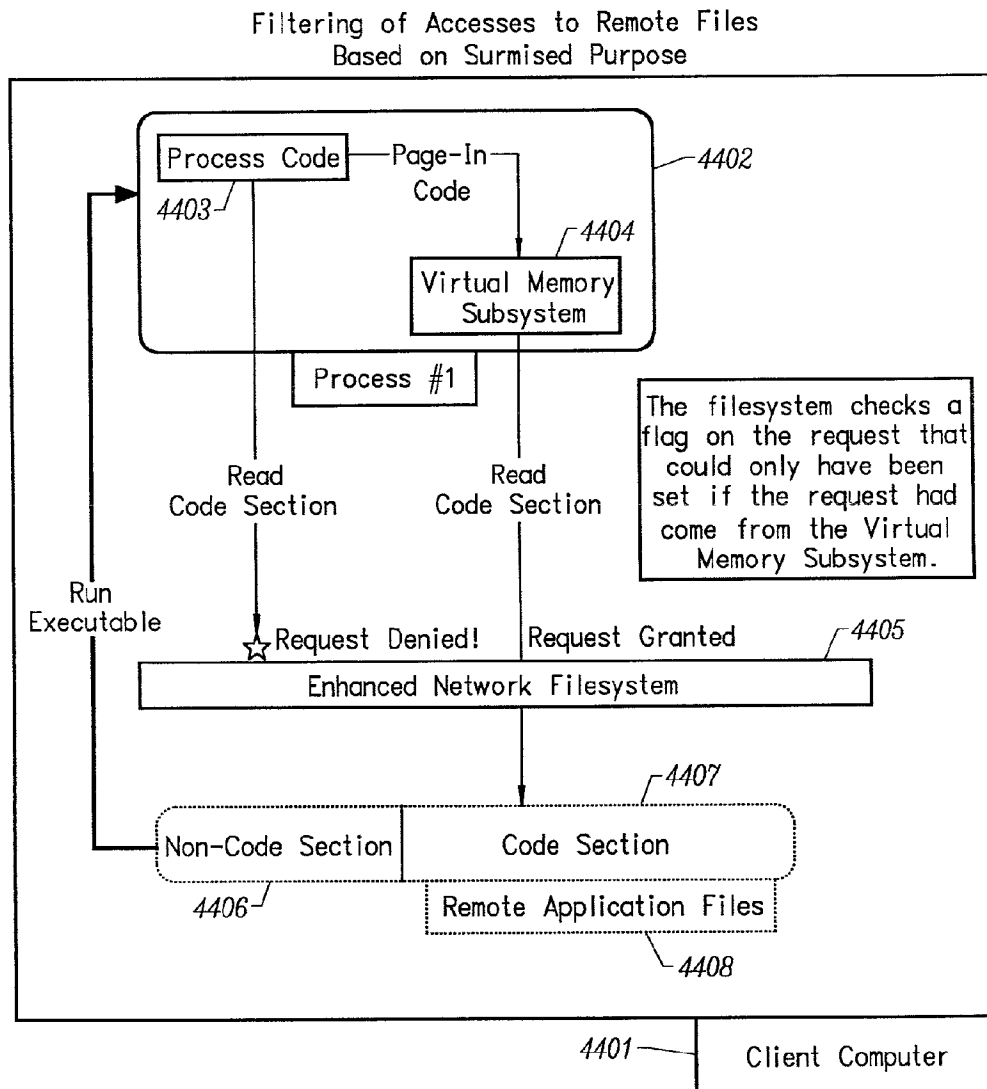


FIG. 44

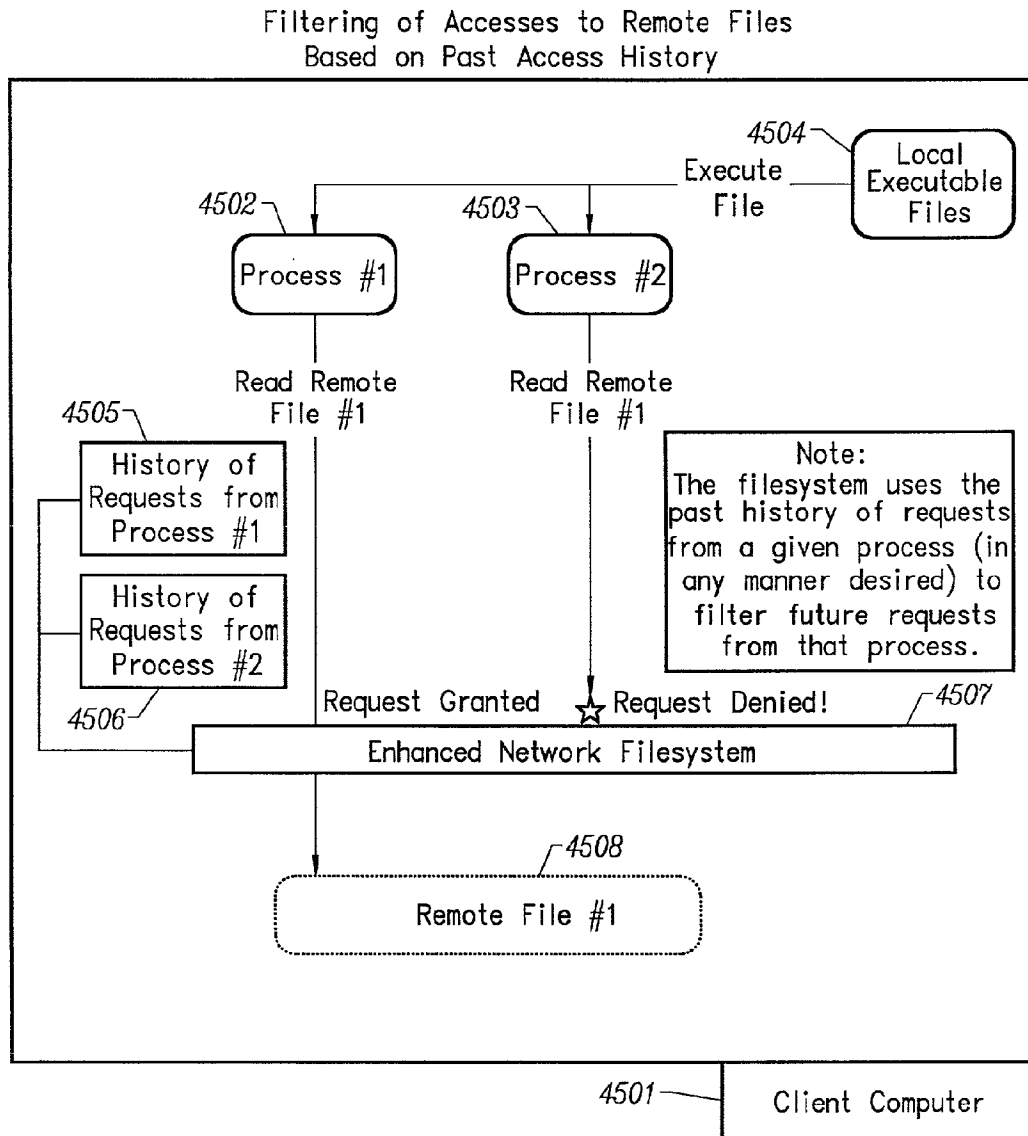


FIG. 45

CONVENTIONALLY CODED APPLICATION CONVERSION SYSTEM FOR STREAMED DELIVERY AND EXECUTION

CROSS REFERENCE TO RELATED APPLICATIONS

[0001] This application Claims benefit of U.S. Provisional Patent Application Serial No. 60/246,384, filed on Nov. 6, 2000 (OTI.2000.0).

BACKGROUND OF THE INVENTION

[0002] 1. Technical Field

[0003] The invention relates to the streaming of computer program object code across a network in a computer environment. More particularly, the invention relates to streaming and execution of existing applications across a network of servers streaming computer program object code and other related data to clients in a computer environment.

[0004] 2. Description of the Prior Art

[0005] Retail sales models of computer application programs are fairly straight forward. The consumer either purchases the application program from a retailer that is either a brick and mortar or an ecommerce entity. The product is delivered to the consumer in a shrink-wrap form.

[0006] The consumer installs the program from a floppy disk or a CD-ROM included in the packaging. A serial number is generally provided that must be entered at installation or the first time the program is run. Other approaches require that the CD-ROM be present whenever the program is run. However, CD-ROMs are easily copied using common CDR technology.

[0007] Another approach is for the consumer to effectuate the purchase through an ecommerce entity. The application program is downloaded in its entirety to the consumer across the Internet. The consumer is emailed a serial number that is required to run the program. The consumer enters the serial number at the time the program is installed or the first time the program is run.

[0008] Once the application program is installed on a machine, it resides on the machine, occupying precious hard disk space, until it is physically removed. The installer portion of the program can also be installed on a server along with the installation files. Users within an intranet can install the program from the server, across the network, onto their machines. The program is a full installation of the program and resides on the user's machine until it is manually removed.

[0009] Trial versions of programs are also available online that are a partial or full installation of the application program. The program executes normally for a preset time period. At the end of the time period, the consumer is told that he must purchase the program and execution is terminated. The drawback to this approach is that there is an easy way for the consumer to fool the program. The consumer simply uninstalls the program and then reinstalls it, thereby restarting the time period.

[0010] Additionally, piracy problems arise once the application program is resident on the consumer's computer. Serial numbers for programs are easily obtained across the Internet. Software companies lose billions of dollars a year in revenue because of this type of piracy.

[0011] The above approaches fail to adequately protect software companies' revenue stream. These approaches also require the consumer to install a program that resides indefinitely on the consumer's hard disk, occupying valuable space even though the consumer may use the program infrequently.

[0012] The enterprise arena allows Application Service Providers (ASP) to provide browser-based implementations such as Tarantella offered by Santa Cruz Operation, Inc. in Santa Cruz, Calif. and Metaframe offered by Citrix Systems Inc. of Fort Lauderdale, Fla. A remote application portal site allows the user to click on an application in his browser to execute the application. The application runs on the portal site and GUI interfaces such as display, keystrokes and mouse clicks are transferred over the wire. The access to the program is password protected. This approach allows the provider to create an audit trail and to track the use of an application program. AppStream Inc. of Palo Alto, Calif. uses Java code streamlets to provide streaming applications to the user. The system partitions a Web application program into Java streamlets. Java streamlets are then streamed to the user's computer on an as-needed basis. The application runs on the user's computer, but is accessed through the user's network browser.

[0013] The drawback to the browser-based approaches is that the user is forced to work within his network browser, thereby adding another layer of complexity. The browser or Java program manages the application program's run-time environment. The user loses the experience that the software manufacturer had originally intended for its product including features such as application invocation based on file extension associations.

[0014] It would be advantageous to provide a conventionally coded application conversion system for streamed delivery and execution that converts a conventionally coded application program into a streamed application suitable for concurrent execution on a client while being streamed from a server. It would further be advantageous to provide a conventionally coded application conversion system for streamed delivery and execution that does not require the conventionally coded application program to be recompiled or recoded.

SUMMARY OF THE INVENTION

[0015] The invention provides a conventionally coded application conversion system for streamed delivery and execution. The system converts a conventionally coded application program into a streamed application suitable for concurrent execution on a client while being streamed from a server. In addition, the invention provides a system that does not require the conventionally coded application program to be recompiled or recoded.

[0016] The invention converts locally installable applications into a data set suitable for streaming over a network. The invention monitors two classes of information during an application installation on a local computer system: system registry modifications and file modifications.

[0017] To monitor system registry modifications, the invention records the modification data when the installation program writes to the registry of the local computer system, including registry key path, value name and value data is

recorded. File modification data are logged each time an installation program modifies a file on the system. The invention sorts this data and removes duplicates and parameterizes all local-system-specific registry keys, value names, and values, so they can be recognized by the client installation software.

[0018] This data is used to create an initialization data set which is the first set of data to be streamed from the server to the client. This data set contains the information captured needed by the client to prepare the client machine for streaming a particular application. A runtime data set is also created that contains the rest of the data that is streamed to the client once the client machine is initialized for a particular application. The runtime data consists of all the regular application files and the directories containing information about those application files. Each directory contains list of file name, file number, and the metadata associated with the files in that particular directory.

[0019] A versioning table contains a list of root file numbers and version numbers. This information is used to track application patches and upgrades. Each entry in the versioning table corresponds to one patch level of the application with a corresponding new root directory. The client is sent the versioning table and compares it with the client's application root file number to find the files required for a software patch or update.

[0020] The invention monitors a running application that is being configured for a particular working environment on the local computer system. Common configuration modifications are captured and the data acquired are used to duplicate the same configuration on multiple client machines, making it unnecessary for each user to configure his/her own application installation.

[0021] The invention monitors and profiles the sequence of file blocks accessed by the application program as it runs. This information is used so that frequently used file blocks can be streamed to the client machine before other less used file blocks and cached locally on the client cache before the user starts using the streamed application for the first time. Additionally, frequently accessed files can be reordered in the directories to allow faster lookup of the file information. Finally, the association of a set of file blocks with a particular user input allows the client to prefetch from the server, a set of file blocks needed to respond to that particular user command.

[0022] Other aspects and advantages of the invention will become apparent from the following detailed description in combination with the accompanying drawings, illustrating, by way of example, the principles of the invention.

BRIEF DESCRIPTION OF THE DRAWINGS

[0023] FIG. 1 is a block schematic diagram of a preferred embodiment of the invention showing components on the server that deal with users subscribing to and running applications according to the invention;

[0024] FIG. 2 is a block schematic diagram of a preferred embodiment of the invention showing the client components supporting application delivery and execution according to the invention;

[0025] FIG. 3 is a block schematic diagram of a preferred embodiment of the invention showing the components needed to install applications on the client according to the invention;

[0026] FIG. 4 is a block schematic diagram of the Builder that takes an existing application and extracts the Application File Pages for that application according to the invention;

[0027] FIG. 5a is a block schematic diagram illustrating how the Client Network Spoofer is used to handle mapping TCP interfaces to HTTP interfaces according to the invention;

[0028] FIG. 5b is a block schematic diagram illustrating how the Client Network Spoofer is used to handle mapping TCP interfaces to HTTP interfaces according to the invention;

[0029] FIG. 6a is a block schematic diagram showing several different components of the client software according to the invention;

[0030] FIG. 6b is a block schematic diagram showing the use of volatile and non-volatile storage of code and data in the client and server according to the invention;

[0031] FIG. 7a is a block schematic diagram showing one of two ways in which data may be compressed while in transit between the server and client according to the invention;

[0032] FIG. 7b is a block schematic diagram showing the other way in which data may be compressed while in transit between the server and client according to the invention;

[0033] FIG. 8 is a block schematic diagram showing an organization of the streaming client software according to the invention;

[0034] FIG. 9 is a block schematic diagram showing an alternative organization of the streaming client software according to the invention;

[0035] FIG. 10 is a block schematic diagram showing the application streaming software consisting of a streaming block driver according to the invention;

[0036] FIG. 11 is a block schematic diagram showing the application streaming software has been divided into a disk driver and a user mode client according to the invention;

[0037] FIG. 12 is a block schematic diagram showing the unencrypted and encrypted client caches according to the invention;

[0038] FIG. 13 is a block schematic diagram showing an application generating a sequence of code or data requests to the operating system according to the invention;

[0039] FIG. 14 is a block schematic diagram showing server-based prefetching according to the invention;

[0040] FIG. 15 is a block schematic diagram showing a client-to-client communication mechanism that allows local application customization to travel from one client machine to another without involving server communication according to the invention;

[0041] FIG. 16 is a block schematic diagram showing a client cache with extensions for supporting local file customization according to the invention;

[0042] FIG. 17 is a block schematic diagram showing aspects of a preferred embodiment of the invention related to load balancing and hardware fail over according to the invention;

[0043] FIG. 18 is a block schematic diagram showing the benefits to the use of compression in the streaming of Application File Pages according to the invention;

[0044] FIG. 19 is a block schematic diagram showing pre-compression of Application File Pages according to the invention;

[0045] FIG. 20 is a block schematic diagram showing multi-page compression of Application File Pages according to the invention;

[0046] FIG. 21 is a block schematic diagram showing profile-based prefetching according to the invention;

[0047] FIG. 22 is a block schematic diagram showing the use of tokens and a License Server according to the invention;

[0048] FIG. 23 is a block schematic diagram showing a flowchart for the Builder Install Monitor according to the invention;

[0049] FIG. 24 is a block schematic diagram showing a flowchart for the Builder Application Profiler according to the invention;

[0050] FIG. 25 is a block schematic diagram showing a flowchart for the Builder SAS Packager according to the invention;

[0051] FIG. 26a is a block schematic diagram showing versioning support according to the invention;

[0052] FIG. 26b is a block schematic diagram showing versioning support according to the invention;

[0053] FIG. 27 is a block schematic diagram showing a data flow diagram for the Streamed Application Set Builder according to the invention;

[0054] FIG. 28 is a block schematic diagram showing the Streamed Application Set format according to the invention;

[0055] FIG. 29 is a block schematic diagram showing an SAS client using a device driver paradigm according to the invention;

[0056] FIG. 30 is a block schematic diagram showing an SAS client using a file system paradigm according to the invention;

[0057] FIG. 31a through 31h is a schematic diagram showing various components of the AppinstallBlock format according to the invention;

[0058] FIG. 32 is a block schematic diagram showing the Application Install Block lifecycle according to the invention;

[0059] FIG. 33 is a block schematic diagram showing peer caching according to the invention;

[0060] FIG. 34 is a block schematic diagram showing proxy caching according to the invention;

[0061] FIG. 35 is a block schematic diagram showing multicast within a LAN and a packet protocol according to the invention;

[0062] FIG. 36 is a block schematic diagram showing concurrent requests for application server pages, for the case when the page is first requested through the proxy according to the invention;

[0063] FIG. 37 is a block schematic diagram showing concurrent requests for application server pages, for the case when the page is first requested through the peer caching according to the invention;

[0064] FIG. 38 is a block schematic diagram showing concurrent requests for application server pages, for the case when the page is received only through peer caching according to the invention;

[0065] FIG. 39 is a block schematic diagram showing a client-server system using peer and proxy caching according to the invention;

[0066] FIG. 40 is a block schematic diagram showing a preferred embodiment of the invention preventing piracy of remotely served, locally executed applications according to the invention;

[0067] FIG. 41 is a block schematic diagram showing the filtering of accesses to remote application files according to the invention;

[0068] FIG. 42 is a block schematic diagram showing the filtering of accesses to remote files based on process code location according to the invention;

[0069] FIG. 43 is a block schematic diagram showing the filtering of accesses to remote files based on targeted file section according to the invention;

[0070] FIG. 44 is a block schematic diagram showing the filtering of accesses to remote files based on surmised purpose according to the invention; and

[0071] FIG. 45 is a block schematic diagram showing the filtering of accesses to remote files based on past access history according to the invention.

DETAILED DESCRIPTION OF THE INVENTION

[0072] The invention is embodied in a conventionally coded application conversion system for streamed delivery and execution in a computer environment. A system according to the invention converts a conventionally coded application program into a streamed application suitable for concurrent execution on a client while being streamed from a server. In addition, the invention provides a system that does not require the conventionally coded application program to be recompiled or recoded.

[0073] The invention provides a highly efficient and secure application delivery system in conjunction with the adaptively optimized execution of applications across a network such as the Internet, a corporate intranet, or a wide area network. This is done in such a way that existing applications do not need to be recompiled or recoded. Furthermore, the invention is a highly scalable, load-balancing, and fault-tolerant system.

[0074] When using the invention, an end-user requests applications that are resident on remote systems to be launched and run on the end-user's local system. The end-user's local system is called the client or client system, e.g., a desktop, laptop, palmtop, or information appliance. A remote system is called a server or server system and is located within a collection of one or more servers called a server cluster.

[0075] From the point of view of the client system, the application appears to be installed locally on the client even though it was initially installed on a different computer system. The applications execute locally on the client system and not on the server system. To achieve this result, the application is converted into a form suitable for streaming over the network. The streaming-enabled form of an application is called the Streamed Application Set (SAS) and the conversion process is termed the SAS Builder. The conversion of an application into its SAS form typically takes place on a system different from either an end-user client system or an Application Service Provider Server Cluster. This system is called the SAS Conversion System or, simply, the conversion system.

[0076] Components of the invention are installed on the client system to support activities such as the installation, invocation, and execution of a SAS-based application. Other components of the invention are installed on the server system to support activities such as the verification of end user application subscription and license data and the transfer and execution of a SAS-based application on the client system. Some of the client and some of the server components run in the kernel-mode while other components run in the usual user-mode.

[0077] The term Application Service Provider (ASP) refers to an entity that uses the server components on one or more server systems, i.e., an ASP Server Cluster, to deliver applications to end-user client systems. Such an entity could be, for example, a software manufacturer, an e-commerce vendor that rents or leases software, or a service department within a company. The invention enables an ASP to deliver applications across a network, in a highly efficient and secure way; the applications are adaptively optimized for execution on an end-user's client system.

[0078] A number of techniques are employed to increase the overall performance of the delivery of an application and its subsequent execution by minimizing the effect of network latency and bandwidth. Among the techniques employed are: the SAS Builder identifies sequences of frequently accessed application pages and uses this information when generating a SAS; individual SAS pages and sequences of SAS pages are compressed and cached in an in-memory cache on the server system; various aspects of the applications are monitored during their actual use on a client and the resulting profiling data is used by the client to pre-fetch (pull) and by the server to send (push) additional pages which have a high likelihood of being used prior to their actual use; and SAS pages are cached locally on a client for their immediate use when an application is invoked.

[0079] Aggregate profile data for an application, obtained by combining the profile data from all the end-user client systems running the application, is used to increase the system performance as well. A number of additional caching techniques that improve both system scalability and performance are also employed. The above techniques are collectively referred to as collaborative caching.

[0080] In an embodiment of the invention, the SAS Builder consists of three phases: installation monitoring, execution profiling, and application stream packaging. In the final SAS Builder phase, the Application Stream Packager takes the information gathered by the Application Install Monitor and the Application Execution Profiler and creates the SAS form of the application, which consists of a Stream Enabled Application Pages File and a Stream Enabled Application Install Block.

[0081] The Stream Enabled Application Install Block is used to install a SAS-based application on a client system while selected portions of the Stream Enabled Application Pages File are streamed to a client to be run on the client system. The Stream Enabled Application Install Block is the first set of data to be streamed from the server to the client and contains, among other things, the information needed by the client system to prepare for the streaming and execution of the particular application. Individual and aggregate client dynamic profile data is merged into the existing Stream Enabled Application Install Block on the server to optimize subsequent streaming of the application.

[0082] The invention employs a Client Streaming File System that is used to manage specific application-related file accesses during the execution of an application. For example, there are certain shared library files, e.g., "foo.dll", that need to be installed on the local file system, e.g., "c:\winnt\system32\foo.dll", for the application to execute. Such file names get added to a "spoofer database". For the previous example, the spoofer database would contain an entry saying that "c:\winnt\system32\foo.dll" is mapped to "z:\word\winnt\system32\foo.dll" where "z:" implies that this file is accessed by the Client Streaming File System. The Client Spoofer will then redirect all accesses to "c:\winnt\system32\foo.dll" to "z:\word\winnt\system32\foo.dll". In this manner, the client system gets the effect of the file being on the local machine whereas in reality the file is streamed from the server. Several different classes of files can be treated in this way, e.g., specific application registry entries and application-based networking calls when such calls cross a firewall.

[0083] Lastly, the invention incorporates a number of software anti-piracy techniques directed at combating the piracy of applications of the type described herein that are delivered to the end-user over a network for execution on a client system. Among the anti-piracy techniques included are: client-side fine-grained filtering of file accesses directed at remotely served files; filtering of file accesses based on where the code for the process that originated the request is stored; identification of crucial portions of application files and filtering file access depending on the portions of the application targeted; filtering of file accesses based on the surmised purpose of the file access, as determined by examining the program stack or flags associated with the request; and filtering of file accesses based on the surmised purpose of the file access, as determined by examining a history of previous file accesses by the same process.

[0084] As mentioned above, the invention provides server and client technology for streaming application delivery and execution. The invention includes secure license-based streaming delivery of applications over Internet/extranets/intranets utilizing client-based execution with client caching and server-based file accesses by page.

[0085] 1. The invention provides many advantages over the present approaches, including:

[0086] Secure license-based streaming delivery over Internet/extranets/intranets:

[0087] reduces IT costs over client installation;

[0088] supports rental model of app delivery, which opens new markets and increases user convenience over purchase and client installation; and

[0089] enhances the opportunities to prevent software piracy over purchase and client installation.

[0090] Client-based execution with client caching:

- [0091]** increases typical application performance over server-based execution;
- [0092]** reduces network latency and bandwidth usage over non-cached client execution; and
- [0093]** allows existing applications to be run w/o rewrite/recompile/rebuild unlike other explicitly-distributed client/server application delivery approaches.

[0094] Server-based file accesses:

- [0095]** improve server-scaling over server-based execution;
- [0096]** allow transparent failover to another server whereas server-based execution does not;
- [0097]** make server load balancing easier than it is with server-based execution; and
- [0098]** allow increased flexibility in server platform selection over server-based execution.

[0099] Server-based file accesses by page:

- [0100]** reduce network latency over complete file downloads;
- [0101]** reduce network bandwidth overhead over complete file downloads; and
- [0102]** reduce client cache footprint over complete file downloads.

[0103] 2. Features of the Invention**[0104]** A) Server Components Supporting Application Delivery and Execution**[0105]** i) referring to **FIG. 1**, the server components include:

- [0106]** a. Client/server network interface **110** that is common to the client **113** and the server. This is the communication mechanism through which the client and the server communicate.
- [0107]** b. The Subscription Server **105**—This is the server the client **113** connects to for subscribing and unsubscribing applications. This server then adds/deletes the subscription information to the Subscription Database **101** and also updates the License Database **102** with the information stating that the client **113** can/cannot run the subscribed information under the agreed upon licensing terms. This communication between the client **113** and the Subscription Server **105** happens over SSL that is an industry standard protocol for secure communication. The Subscription Server **105** is also contacted for updating any existing subscription information that is in the Subscription Database **101**.
- [0108]** c. The License Server **106**—This is the server the client **113** connects to for getting a license to run an application after the client has subscribed to the application. This server validates the user and his subscriptions by consulting the License Database **102**. If the client **113** does have a valid license, the License Server **106** sends an “Access token” to the

client that is encrypted using an “encryption key” that the License Database **102** obtains from the Server Config Database **103**. The “Access token” contains information like the Application ID and an expiration time. Along with the “Access token,” the License Server **106** also sends a list of least loaded application servers that it obtains from the Server Config Database **103** and also the expiration time that was encoded in the “Access token”. The client **113** uses this expiration time to know when to ask for a new token. This communication between the client **113** and the License Server **106** happens over SSL.

[0109] d. The Application Server **107**—Once the client **113** obtains an “Access token” to run an application, it connects to the Application Server **107** and presents to it the “Access token” along with the request for the application bits. Note that the “Access token” is opaque to the client **113** since it does not have the key to decrypt it. The Application Server **107** validates the “Access token” by decrypting it using a “decryption key” obtained from the Server Config Database **103** and checking the content against a predefined value like for example the Application ID and also by making sure that the expiration time in the “Access token” has not elapsed. It then serves the appropriate bits to the client **113** to enable it to run the application. The encryption and decryption keys could be something like a private key/public key pair or a symmetric key or any other means of providing security. Note that the keys are uniform across all the servers within an ASP.

[0110] e. The Monitor Server **108**—It monitors the load in terms of percent of CPU utilization on the Application Servers **107** and the License Servers **106** on a periodic basis (for example—every minute) and adds that information to the Server Config Database **103**.

[0111] f. The Profile Server **109**—it receives profile information from the clients periodically. It adds this information to the Profile Database **104**. The Profile Server **109** based on the profile information from different clients updates the App Prefetch Page List section of the Stream App Install Blocks **112**.

[0112] ii) The data structures supporting the above server components include:

- [0113]** a. Subscription Database **101**—This is the database that stores the user information in terms of username, list of apps subscribed, password, billing information, address, group, admin. The username is the primary key. The admin field identifies if this user has admin privileges for the group he belongs to.
- [0114]** b. License Database **102**—This is the database that stores licensing information, i.e., which user can run what application and under which license. This database also keeps track of usage information, i.e., which user has used which application for how long and how many times. The information looks like:

[0115] Username, application, time of usage, number of times run

- [0116] Username, application, licensing policy
- [0117] Username, application, is app running, no of instances, time of start The username is the primary key. The licensing policy could be something simple like expiry date or something more complicated like number of instances simultaneously allowed within a group etc.
- [0118] c. Server Config Database 103—This database stores information about which server can run which application, what is the load on all the servers, what is the encryption “key” to be used by the servers and all other information that is needed by the servers. The information looks like:
- [0119] Server IP address, App/Slim server, application list, current load
- [0120] Encryption key, Decryption key The Server IP address is the primary key for the first table. The keys are common across all servers.
- [0121] d. Profile Database 104—This database stores the profile information received by the profile server from the clients periodically. The information looks like:
- [0122] Application ID, File ID, Block ID number of hits The Application ID is the primary key.
- [0123] e. Application File Pages 111—This is the one of the outputs of the “builder” as explained below and is put on the Application Server 107 so that it can serve the appropriate bits to the client.
- [0124] f. Stream App Install Blocks 112—This is the other output of the “builder” and contains the information for successfully installing applications on the client for streaming applications.
- [0125] B) Client Components Supporting Application Delivery & Execution
- [0126] i) With respect to FIGS. 1 and 2, these client components include:
- [0127] a. Client/Server Network interface 202—This is the same interface as explained above.
- [0128] b. Client License Manager 205—This component requests licenses (“Access tokens”) from the License Server 106 when the client wants to run applications. The License Server 106 sends an “Access token” to the client that can be used to run the applications by presenting it to the Application Server 107. Along with the token, the License Server 106 also sends the expiry time of the token. The Client License Manager 205 renews the token just before the expiry period so that the client can continue running the application. When the application is complete, the Client License Manager 205 releases the token by sending a message to the License Server 106. In addition, when a user has subscribed to an application, the Client License Manager 205 first checks to make sure that the application is installed on the machine the user is trying to run the application from and if not requests for the application installation. It does this using a list of Installed Apps that it maintains.
- [0129] c. Client Cache Manager 207—This component caches the application bits received from the Application Server 107 so that next time a request is made to the same bits, the request can be served by the cache instead of having to go to the Application Server 107. The Client Cache Manager 207 has a limited amount of space on the disk of the client machine that it uses for the cache. When the space is fully occupied, the Client Cache Manager 207 uses a policy to replace existing portions of the cache. This policy can be something like LRU, FIFO, random etc. The Client Cache Manager 207 is responsible for getting the application bits requested by the Client Streaming File System 212. If it does not have the bits cached, it gets them from the Application Server 107 through the network interface. However it also need to get the “Access token” from the Client License Manager 205 that it needs to send along with the request for the application bits. The Client Cache Manager 207 also updates the Prefetch History Info 209 with the requests it receives from the Client Streaming File System 212.
- [0130] d. Client Streaming File System 212—This component serves all file system requests made by the application running on the client. The application makes calls like “read”, “write” etc. to files that need to be streamed. These requests lead to page faults in the operating system and the page faults are handled by the Client Streaming File System 212 that in turn asks the Client Cache Manager 207 for the appropriate bits. The Client Cache Manager 207 will send those bits from the cache if they exist there or forward the request to the Application Server 107 through the network interface to get the appropriate bits.
- [0131] e. Client Prefetcher 208—This component monitors the requests made by the client to the Application Server 107 and uses heuristics to make additional requests to the Application Server 107 so that the bits can be obtained from the Application Server 107 before the client machine makes the request for them. This is mainly to hide the latency between the client and the Application Server 107. The history information of the requests is stored in the Prefetch History Info file 209.
- [0132] f. Client Profiler 203—At specific time intervals, the client profiler sends the profile information, which is the Prefetch History Info to the prefetch server at the ASP that can then update the App Prefetch Page Lists for the different applications accordingly.
- [0133] g. Client File Spoofer 211—Certain files on the client need to be installed at specific locations on the client system. To be able to stream these files from the Application Server 107, the Client Spoofer 211 intercepts all requests to these files made by a running application and redirects them to the Client Streaming File System 212 so that the bits can be streamed from the Application Server 107.
- [0134] h. Client Registry Spoofer 213—Similar to files, certain registry entries need to be different when the application being streamed is running and

since it is undesirable to overwrite the existing registry value, the read of the registry value is redirected to the Client Registry Spoofer **215** which returns the right value. However, this is optional as it is very likely that overwriting the existing registry value will make the system work just fine.

- [0135] i. Client Network Spoofer **213**—Certain applications make networking calls through a protocol like TCP. To make these applications work across firewalls, these networking calls need to be redirected to the Client Network Spoofer **213** which can tunnel these requests through a protocol like HTTP that works through firewalls.
- [0136] ii) The data structures needed to support the above client components include:
 - [0137] a. File Spoof Database **210**—The list of files the requests to which need to be redirected to the Client Streaming File System **212**. This information looks like (The source file name is the primary key)
 - [0138] Source File Name, Target File Name
 - [0139] b. Registry Spoof Database **216**—List of registry entries and their corresponding values that need to be spoofed. Each entry looks like:
 - [0140] Registry entry, new value
 - [0141] c. Network Spoof Database **214**—Like of IP addresses, the networking connections to which need to be redirected to the Client Network Spoofer **213**. Each entry looks like (IP address is the primary key):
 - [0142] IP address, Port number, new IP address, new Port number
 - [0143] d. Client Stream Cache **206**—The on-disk cache that persistently stores application bits.
 - [0144] e. Known ASPs and Installed Apps **204**—The list of ASP servers (Application, License and Subscription) and also the list of applications that are installed on the client.
 - [0145] f. Prefetch History Info **209**—The history of the requests made to the cache. This consists of which blocks were requested from which file for which application and how many times each block was requested. It also consists of predecessor-successor information indicating which block got requested after a particular block was requested.
- [0146] C) Client Application Installation
- [0147] Referring to **FIG. 3**, the client application installation components include:
 - [0148] i) Client License Manager **303**—This is the same component explained above.
 - [0149] ii) Client Application Installer **305**—This component is invoked when the application needs to be installed. The Client Application Installer **305** sends a specific request to the Application Server **107** for getting the Stream App Install Block **301** for the particular application that needs to be installed. The Stream App Install Block **301** consists of the App Prefetch Page List **306**, Spoof Database **308, 309, 310**, and App Registry Info **307**. The Client Appli-

cation Installer **305** then updates the various Spoof Databases **308, 309, 310** and the Registry **307** with this information. It also asks the Client Prefetcher **208** to start fetching pages in the App Prefetch Page List **306** from the Application Server **107**. These are the pages that are known to be needed by a majority of the users when they run this application.

[0150] D) Application Stream Builder Input/Output

[0151] With respect to **FIG. 4**, the Builder components include the following:

- [0152] i) Application Install Monitor **403**—This component monitors the installation of an application **401** and figures out all the files that have been created during installation **402**, registry entries that were created and all the other changes made to the system during installation.
- [0153] ii) Application Profiler **407**—After the application is installed, it is executed using a sample script. The Application Profiler **407** monitors the application execution **408** and figures out the application pages that got referenced during the execution.
- [0154] iii) App Stream Packager **404**—The App Stream Packager **404** takes the information gathered by the Application Profiler **407** and the Application Install Monitor **403** and forms the Application File Pages **406** and the Stream App Install Block **405** from that information.

[0155] E) Network Spoofing for Client-server Applications

[0156] Referring to **FIGS. 1, 4, 5a, 5b, and 6a**, the component that does the Network Spoofing is the TCP to HTTP converter **503, 507**. The basic idea is to take TCP packets and tunnel them through HTTP on one side and do exactly the opposite on the other. As far as the client **501** and the server **502** are concerned the communication is TCP and so existing applications that run with that assumption work unmodified. This is explained in more detail below.

[0157] On the client side, the user launches an application that resides on the Client Streaming File System. That application may be started in the same ways that applications on other client file systems may be started, e.g., opening a data file associated with the application or selecting the application from the Start/Programs menu in a Windows system. From the point of view of the client's operating system and from the point of view of the application itself, that application is located locally on the client.

[0158] Whenever a page fault occurs on behalf of any application file residing on the Client Streaming File System **604**, that file system requests the page from the Client Cache Manager **606**. The Client Cache Manager **606**, after ensuring via interaction with the Client License Manager **608** that the user's client system holds a license to run the application at the current time, checks the Client Stream Cache **611** and satisfies the page fault from that cache, if possible. If the page is not currently in the Client Stream Cache **611**, the Client Cache Manager **606** makes a request to the Client/Server Network Interface **505, 609** to obtain that page from the Application File Pages stored on an Application Server **506**.

[0159] The Client Prefetcher **606** tracks all page requests passed to the Client Cache Manager **606**. Based on the pattern of those requests and on program locality or program history, the Client Prefetcher **606** asks the Client Cache Manager **606** to send additional requests to the Client/Server Network Interface **505**, **609** to obtain other pages from the Application File Pages stored on the Application Server **506**.

[0160] Files located on the Client Streaming File System **604** are typically identified by a particular prefix (like drive letter or pathname). However, some files whose names would normally imply that they reside locally are mapped to the Client Streaming File System **604**, in order to lower the invention's impact on the user's local configuration. For instance, there are certain shared library files (dll's) that need to be installed on the local file system (c:\winnt\system32\foo.dll). It is undesirable to add that file on the user's system. The file name gets added to a "spooft database" which contains an entry saying that c:\winnt\system32\foo.dll is mapped to z:\word\winnt\system32\foo.dll where z: implies that it is the Client Streaming File System. The Client Spoofer **603** will then redirect all accesses to c:\winnt\system32\foo.dll to z:\word\winnt\system32\foo.dll. In this manner the client system gets the effect of the file being on the local machine whereas in reality the file is streamed from the server.

[0161] In a similar fashion the Client Spoofer **603** may also be used to handle mapping TCP interfaces to HTTP interfaces. There are certain client-server applications (like ERP/CRM applications) that have a component running on a client and another component running on a database server, Web server etc. These components talk to each other through TCP connections. The client application will make TCP connections to the appropriate server (for this example, a database server) when the client piece of this application is being streamed on a user's machine.

[0162] The database server could be resident behind a firewall and the only way for the client and the server to communicate is through a protocol like HTTP that can pass through firewalls. To enable the client to communicate with the database server, the client's TCP requests need to be converted to HTTP and sent to the database server. Those requests can be converted back to TCP so that the database server can appropriately process the requests just before the requests reach the database server. The Client Spoofer's **603** responsibility in this case is to trap all TCP requests going to the database server and convert it into HTTP requests and take all HTTP requests coming from the database server and convert them into TCP packets. Note that the TCP to HTTP converters **505**, **507** convert TCP traffic to HTTP and vice versa by embedding TCP packets within the HTTP protocol and by extracting the TCP packets from the HTTP traffic. This is called tunneling.

[0163] When the Client License Manager **608** is asked about a client's status with respect to holding a license for a particular application and the license is not already being held, the Client License Manager **608** contacts the License Server **106** via the Client/Server Network Interface **609** and asks that the client machine be given the license. The License Server **106** checks the Subscription **101** and License **102** Databases and, if the user has the right to hold the license at the current time, it sends back an Access Token, which represents the right to use the license. This Access Token is renewed by the client on a periodic basis.

[0164] The user sets up and updates his information in the Subscription **101** and License **102** Databases via interacting with the Subscription Server **105**.

[0165] Whenever a user changes his subscription information, the Subscription Server **105** signals the user's client system since the client's Known ASPs and Installed Apps information potentially needs updating. The client system also checks the Subscription **101** and License **102** Databases whenever the user logs into any of his client systems set up for Streaming Application Delivery and Execution. If the user's subscription list in the Subscription **101** and License **102** Databases list applications that have not been installed on the user's client system, the user is given the opportunity to choose to install those applications.

[0166] Whenever the user chooses to install an application, the Client License Manager **608** passes the request to the Client Application Installer **607** along with the name of the Stream App Install Block to be obtained from the Application Server **107**. The Client Application Installer **607** opens and reads that file (which engages the Client Streaming File System) and updates the Client system appropriately, including setting up the spooft database, downloading certain needed non-application-specific files, modifying the registry file, and optionally providing a list of applications pages to be prefetched to warm up the Client Stream Cache **611** with respect to the application.

[0167] The Application Stream Builder creates the Stream App Install Block **405** used to set up a client system for Streaming Application Delivery and Execution and it also creates the set of Application File Pages **406** sent to satisfy client requests by the Application Server **107**. The process that creates this information is offline and involves three components. The Application Install Monitor **403** watches a normal installation of the application and records various information including registry entries, required system configuration, file placement, and user options. The Application Profiler **407** watches a normal execution of the application and records referenced pages, which may be requested to pre-warm the client's cache on behalf of this application. The Application Stream Packager **404** takes information from the other two Builder components, plus some information it compiles with respect to the layout of the installed application and forms the App Install Block **405** and the set of Application File Pages **406**.

[0168] Server fail-over and server quality of service problems are handled by the client via observation and information provided by the server components. An ASP's Subscription Server provides a list of License Servers associated with that ASP to the client, when the user initiates/modifies his account or when the client software explicitly requests a new list. A License Server provides a list of Application Servers associated with an application to the client, whenever it sends the client an Access Token for the application.

[0169] Should the client observe apparent non-response or slow response from an Application Server, it switches to another Application Server in its list for the application in question. If none of the Application Servers in its list respond adequately, the client requests a new set for the application from a License Server. The strategy is similar in the case in which the client observes apparent non-response or slow response from a License Server; the client switches to another License Server in its list for the ASP in question.

If none of the License Servers in its list responds adequately, the client requests a new set of License Servers from the ASP.

[0170] Server load balancing is handled by the server components in cooperation with the client. A server monitor component tracks the overall health and responsiveness of all servers. When a server is composing one of the server lists mentioned in the previous paragraph, it selects a set that is alive and relatively more lightly used than others. Client cooperation is marked by the client using the server lists provided by the servers in the expected way, and not unilaterally doing something unexpected, like continuing to use a server which does not appear in the most recent list provided.

[0171] Security issues associated with the server client relationship are considered in the invention. To ensure that the communication between servers and clients is private and that the servers in question are authorized via appropriate certification, an SSL layer is used. To ensure that the clients are licensed to use a requested application, user credentials (username+password) are presented to a License Server, which validates the user and his licensing status with respect to the application in question and issues an Access Token, and that Access Token is in turn presented to an Application Server, which verifies that the Token's validity before delivering the requested page. Protecting the application in question from piracy on the client's system is discussed in another section, below.

Client-side Performance Optimization

[0172] This section focuses on client-specific portions of the invention. The invention may be applied to any operating system that provides a file system interface or block driver interface. A preferred embodiment of the invention is Windows 2000 compliant.

[0173] With respect to FIG. 6a, several different components of the client software are shown. Some components will typically run as part of the operating system kernel, and other portions will run in user mode.

[0174] The basis of the client side of the streamed application delivery and execution system is a mechanism for making applications appear as though they were installed on the client computer system without actually installing them.

[0175] Installed applications are stored in the file system of the client system as files organized in directories. In the state of the art, there are two types of file systems: local and network. Local file systems are stored entirely on media (disks) physically resident in the client machine. Network file systems are stored on a machine physically separate from the client, and all requests for data are satisfied by getting the data from the server. Network file systems are typically slower than local file systems. A traditional approach to use the better performance of a local file system is to install important applications on the local file system, thereby copying the entire application to the local disk. The disadvantages of this approach are numerous. Large applications may take a significant amount of time to download, especially across slower wide area networks. Upgrading applications is also more difficult, since each client machine must individually be upgraded.

[0176] The invention eliminates these two problems by providing a new type of file system: a streaming file system. The streaming file system allows applications to be run

immediately by retrieving application file contents from the server as they are needed, not as the application is installed. This removes the download cost penalty of doing local installations of the application. The streaming file system also contains performance enhancements that make it superior to running applications directly from a network file system. The streaming file system caches file system contents on the local machine. File system accesses that hit in the cache are nearly as fast as those to a local file system. The streaming file system also has sophisticated information about application file access patterns. By using this knowledge, the streaming file system can request portions of application files from the server in advance of when they will actually be needed, thus further improving the performance of applications running on the application streaming file system.

[0177] In a preferred embodiment of the invention, the application streaming file system is implemented on the client using a file system driver and a helper application running in user mode. The file system driver receives all requests from the operating system for files belonging to the application streaming file system. The requests it handles are all of the standard file system requests that every file system must handle, including (but not limited to) opening and closing files, reading and writing files, renaming files, and deleting files. Each file has a unique identifier consisting of an application number, and a file number within that application. In one embodiment of the invention, the application number is 128 bits and the file number is 32 bits, resulting in a unique file ID that is 160 bits long. The file system driver is responsible for converting path names (such as "z:\program files\foo.exe") into file IDs (this is described below). Once the file system driver has made this translation, it basically forwards the request to the user-mode program to handle.

[0178] The user-mode program is responsible for managing the cache of application file contents on the local file system and contacting the application streaming server for file contents that it cannot satisfy out of the local cache. For each file system request, such as read or open, the user-mode process will check to see if it has the requested information in the cache. If it does, it can copy the data from the cache and return it to the file system driver. If it does not, it contacts the application streaming server over the network and obtains the information it needs. To obtain the contents of the file, the user-mode process sends the file identifier for the file it is interested in reading along with an offset at which to read and the number of bytes to read. The application streaming server will send back the requested data.

[0179] The file system can be implemented using a fragmented functionality to facilitate development and debugging. All of the functionality of the user-mode component can be put into the file system driver itself without significantly changing the scope of the invention. Such an approach is believed to be preferred for a client running Windows 95 as the operating system.

[0180] Directories are specially formatted files. The file system driver reads these from the user mode process just like any other files with reads and writes. Along with a header containing information about the directory (such as how long it is), the directory contains one entry for each file that it contains. Each entry contains the name of the file and its file identifier. The file identifier is necessary so that the specified file can be opened, read, or written. Note that since directories are files, directories may recursively contain

other directories. All files in an application streaming file system are eventual descendants of a special directory called the "root". The root directory is used as the starting point for parsing file names.

[0181] Given a name like "z:/foo/bar/baz", the file system driver must translate the path "z:/foo/bar/baz" into a file identifier that can be used to read the file from the application streaming service. First, the drive letter is stripped off, leaving "/foo/bar/baz". The root directory will be searched for the first part of the path, in this case "foo". If the file "foo" is found in the root directory, and the file "foo" is a directory, then "foo" will be searched for the next portion of the path, "bar". The file system driver achieves this by using the file id for "foo" (found by searching the root directory) to open the file and read its contents. The entries inside "foo" are then searched for "bar", and this process continues until the entire path is parsed, or an error occurs.

[0182] In the following examples and text, the root directory is local and private to the client. Each application that is installed will have its own special subdirectory in the root directory. This subdirectory will be the root of the application. Each application has its own root directory.

[0183] The invention's approach is much more efficient than other approaches like the standard NFS approach. In those cases, the client sends the entire path "/foo/bar/baz" is sent to the server and the server returns the file id for that file. Next time there is a request for "/foo/bar/baz2" again the entire path needs to be sent. In the approach described here, once the request for "bar" was made, the file ids for all files within bar are sent back including the ids for "baz" and "baz2" and hence "baz2" will already be known to client. This avoids communication between the client and the server.

[0184] In addition, this structure also allows applications to be easily updated. If certain code segments need to be updated, then the code segment listing in the application root directory is simply changed and the new code segment subdirectory added. This results in the new and correct code segment subdirectory being read when it is referenced. For example if a file by the name of "/foo/bar/baz3" needs to be added, the root directory is simply changed to point to a new version of "foo" and that new version of "foo" points to a new version of "bar" which contains "baz3" in addition to the files it already contained. However the rest of the system is unchanged.

[0185] Client Features

[0186] Referring to FIGS. 6a and 6b, a key aspect of the preferred embodiment of the invention is that application code and data are cached in the client's persistent storage 616, 620. This caching provides better performance for the client, as accessing code and data in the client's persistent storage 620 is typically much faster than accessing that data across a wide area network. This caching also reduces the load on the server, since the client need not retrieve code or data from the application server that it already has in its local persistent storage.

[0187] In order to run an application, its code and data must be present in the client system's volatile storage 619. The client software maintains a cache of application code and data that normally reside in the client system's non-volatile memory 620. When the running application requires

data that is not present in volatile storage 619, the client streaming software 604 is asked for the necessary code or data. The client software first checks its cache 611, 620 in nonvolatile storage for the requested code or data. If it is found there, the code or data are copied from the cache in nonvolatile storage 620 to volatile memory 619. If the requested code or data are not found in the nonvolatile cache 611, 620, the client streaming software 604 will acquire the code or data from the server system via the client's network interface 621, 622.

[0188] Application code and data may be compressed 623, 624 on the server to provide better client performance over slow networks. Network file systems typically do not compress the data they send, as they are optimized to operate over local area networks.

[0189] FIGS. 7a & 7b demonstrate two ways in which data may be compressed while in transit between the server and client. With either mechanism, the client may request multiple pieces of code and data from multiple files at once. FIG. 7A illustrates the server 701 compressing the concatenation of A, B, C, and D 703 and sending this to the client 702. FIG. 7B illustrates the server 706 separately compressing A, B, C, and D 708 and sending the concatenation of these compressed regions to the client 707. In either case, the client 702, 707 will decompress the blocks to retrieve the original contents A, B, C, and D 704, 709 and these contents will be stored in the cache 705, 710.

[0190] The boxes marked "Compression" represent any method of making data more compact, including software algorithms and hardware. The boxes marked "Decompression" represent any method for expanding the compacted data, including software algorithms and hardware. The decompression algorithm used must correspond to the compression algorithm used.

[0191] The mechanism for streaming of application code and data may be a file system. Many network file systems exist. Some are used to provide access to applications, but such systems typically operate well over a local area network (LAN) but perform poorly over a wide area network (WAN). While this solution involves a file system driver as part of the client streaming software, it is more of an application delivery mechanism than an actual file system.

[0192] With respect to FIG. 8, application code and data are installed onto the file system 802, 805, 806, 807 of a client machine, but they are executed from the volatile storage (main memory). This approach to streamed application delivery involves installing a special application streaming file system 803, 804. To the client machine, the streaming file system 803, 804 appears to contain the installed application 801. The application streaming file system 803 will receive all requests for code or data that are part of the application 801. This file system 803 will satisfy requests for application code or data by retrieving it from its special cache stored in a native file system or by retrieving it directly from the streaming application server 802. Code or data retrieved from the server 802 will be placed in the cache in case it is used again.

[0193] Referring to FIG. 9, an alternative organization of the streaming client software is shown. The client software is divided into the kernel-mode streaming file system driver 905 and a user-mode client 902. Requests made to the

streaming file system driver **905** are all directed to the user-mode client **902**, which handles the streams from the application streaming server **903** and sends the results back to the driver **905**. The advantage of this approach is that it is easier to develop and debug compared with the pure-kernel mode approach. The disadvantage is that the performance will be worse than that of a kernel-only approach.

[0194] As shown in FIGS. 10 and 11, the mechanism for streaming of application code and data may be a block driver **1004**, **1106**. This approach is an alternative to that represented by FIGS. 8 and 9.

[0195] With respect to FIG. 10, the application streaming software consists of a streaming block driver **1004**. This block driver **1004** provides the abstraction of a physical disk to a native file system **1003** already installed on the client operating system **1002**. The driver **1004** receives requests for physical block reads and writes, which it satisfies out of a cache on a standard file system **1003** that is backed by a physical disk drive **1006**, **1007**. Requests that cannot be satisfied by the cache go to the streaming application server **1005**, as before.

[0196] Referring to FIG. 11, the application streaming software has been divided into a disk driver **1106** and a user mode client **1102**. In a manner similar to that of FIG. 9, the disk driver **1106** sends all requests it gets to the user-mode client **1102**, which satisfies them out of the cache **1107**, **1108** or by going to the application streaming server **1103**.

[0197] The persistent cache may be encrypted with a key not permanently stored on the client to prevent unauthorized use or duplication of application code or data. Traditional network file systems do not protect against the unauthorized use or duplication of file system data.

[0198] With respect to FIG. 12, unencrypted and encrypted client caches. A, B, C, and D **1201** representing blocks of application code and data in their natural form are shown. $E_k(X)$ represents the encryption of block X with key k **1202**. Any encryption algorithm may be used. The key k is sent to the client upon application startup, and it is not stored in the application's persistent storage.

[0199] Client-initiated prefetching of application code and data helps to improve interactive application performance. Traditional network file systems have no prefetching or simple locality based prefetching.

[0200] Referring to FIG. 13, the application **1301** generates a sequence of code or data requests **1302** to the operating system(OS) **1303**. The OS **1303** directs these **1304** to the client application streaming software **1305**. The client software **1305** will fetch the code or data **1306** for any requests that do not hit in the cache from the server **1307**, via the network. The client software **1305** inspects these requests and consults the contents of the cache **1309** as well as historic information about application fetching patterns **1308**. It will use this information to request additional blocks of code and data that it expects will be needed soon. This mechanism is referred to as "pull prefetching."

[0201] Server-initiated prefetching of application code and data helps to improve interactive application performance. Traditional network file systems have no prefetching or simple locality based prefetching.

[0202] With respect to FIG. 14, the server-based prefetching is shown. As in FIG. 13, the client application streaming software **1405** makes requests for blocks **1407** from the application streaming server **1408**. The server **1408** examines the patterns of requests made by this client and selectively returns to the client additional blocks **1406** that the client did not request but is likely to need soon. This mechanism is referred to as "push prefetching."

[0203] A client-to-client communication mechanism allows local application customization to travel from one client machine to another without involving server communication. Some operating systems have a mechanism for copying a user's configuration and setup to another machine. However, this mechanism typically doesn't work outside of a single organization's network, and usually will copy the entire environment, even if only the settings for a single application are desired.

[0204] Referring to FIG. 15, a client-to-client mechanism is demonstrated. When a user wishes to run an application on a second machine, but wishes to retain customizations made previously on the first, the client software will handle this by contacting the first machine to retrieve customized files and other customization data. Unmodified files will be retrieved as usual from the application streaming server.

[0205] Here, File **4** exists in three different versions. The server **1503** provides one version of this file **1506**, client **11501** has a second version of this file **1504**, and client **21502** has a third version **1505**. Files may be modified differently for each client.

[0206] The clients may also contain files not present on the server or on other clients. File **51507** is one such file; it exists only on client **11501**. File **61508** only exists on client **21502**.

[0207] Local Customization

[0208] A local copy-on-write file system allows some applications to write configuration or initialization files where they want to without rewriting the application, and without disturbing the local customization of other clients. Installations of applications on file servers typically do not allow the installation directories of applications to be written, so additional reconfiguration or rewrites of applications are usually necessary to allow per-user customization of some settings.

[0209] With respect to FIG. 16, the cache **1602** with extensions for supporting local file customization is shown. Each block of data in the cache is marked as "clean" **1604** or "dirty" **1605**. Pages marked as dirty have been customized by the client **1609**, and cannot be removed from the cache **1602** without losing client customization. Pages marked as clean may be purged from the cache **1602**, as they can be retrieved again from the server **1603**. The index **1601** indicates which pages are clean and dirty. In FIG. 16, clean pages are white, and dirty pages are shaded. File **11606** contains only clean pages, and thus may be entirely evicted from the cache **1602**. File **21607** contains only dirty pages, and cannot be removed at all from the cache **1602**. File **31608** contains some clean and some dirty pages **1602**. The clean pages of File **31608** may be removed from the cache **1602**, while the dirty pages must remain.

[0210] Selective Write Protection

[0211] The client streaming software disallows modifications to certain application files. This provides several benefits, such as preventing virus infections and reducing the chance of accidental application corruption. Locally installed files are typically not protected in any way other than conventional backup. Application file servers may be protected against writing by client machines, but are not typically protected against viruses running on the server itself. Most client file systems allow files to be marked as read-only, but it is typically possible to change a file from read-only to read-write. The client application streaming software will not allow any data to be written to files that are marked as not modifiable. Attempts to mark the file as writeable will not be successful.

[0212] Error Detection and Correction

[0213] The client streaming software maintains checksums of application code and data and can repair damaged or deleted files by retrieving another copy from the application streaming server. Traditional application delivery mechanisms do not make any provisions for detecting or correcting corrupted application installs. The user typically detects a corrupt application, and the only solution is to completely reinstall the application. Corrupt application files are detected by the invention automatically, and replacement code or data are invisibly retrieved by the client streaming software without user intervention.

[0214] When a block of code or data is requested by the client operating system, the client application streaming software will compute the checksum of the data block before it is returned to the operating system. If this checksum does not match that stored in the cache, the client will invalidate the cache entry and retrieve a fresh copy of the page from the server.

[0215] File Identifiers

[0216] Applications may be patched or upgraded via a change in the root directory for that application. Application files that are not affected by the patch or upgrade need not be downloaded again. Most existing file systems do not cache files locally.

[0217] Each file has a unique identifier (number). Files that are changed or added in the upgrade are given new identifiers never before used for this application. Files that are unchanged keep the same number. Directories whose contents change are also considered changes. If any file changes, this will cause its parent to change, all the way up to the root directory.

[0218] Upgrade Mechanism

[0219] When the client is informed of an upgrade, it is told of the new root directory. It uses this new root directory to search for files in the application. When retrieving an old file that hasn't changed, it will find the old file identifier, which can be used for the existing files in the cache. In this way, files that do not change can be reused from the cache without downloading them again. For a file that has changed, when the file name is parsed, the client will find a new file number. Because this file number did not exist before the upgrade, the client will not have this file in the cache, and will stream the new file contents when the file is freshly accessed. This way it always gets the newest version of files that change.

[0220] The client application streaming software can be notified of application upgrades by the application streaming server. These upgrades can be marked as mandatory, in which case the client software will force the application to be upgraded.

[0221] The client will contact the application streaming server when it starts the application. At this time, the streaming application server can inform the client of any upgrades. If the upgrade is mandatory, the client will be informed, and it will automatically begin using the upgraded application by using the new root directory.

[0222] Multicast Technique

[0223] A broadcast or multicast medium may be used to efficiently distribute applications from one application streaming server to multiple application streaming clients. Traditional networked application delivery mechanisms usually involve installing application code and data on a central server and having client machines run the application from that server. The multicast mechanism allows a single server to broadcast or multicast the contents of an application to many machines simultaneously. The client machines will receive the application via the broadcast and save it in their local disk cache. The entire application can be distributed to a large number of client machines from a single server very efficiently.

[0224] The multicast network is any communication mechanism that has broadcast or multicast capability. Such media include television and radio broadcasts and IP multicasting on the Internet. Each client that is interested in a particular application may listen to the multicast media for code and data for that application. The code and data are stored in the cache for later use when the application is run.

[0225] These client techniques can be used to distribute data that changes rarely. Application delivery is the most appealing use for these techniques, but they could easily be adopted to distribute other types of slowly changing code and data, such as static databases.

Load Balancing and Fault Tolerance for Streamed Applications

[0226] This section focuses on load balancing (and thereby scalability) and hardware fail over. Throughout this discussion reference should be made to **FIG. 17**. Load balancing and fault tolerance are addressed in the invention by using a smart client and smart server combination. A preferred embodiment of the invention that implements these features includes three types of servers (described below): app servers; SLM servers; and an ASP Web server. These are organized as follows:

[0227] 1: ASP Web server **1703**—This is the Web server that the user goes to for subscribing to applications, creating accounts etc. Compared to the other two types of servers it is characterized by: lowest traffic, fewest number of them, & least likely to go down.

[0228] 2: SLM Servers **1707**—subscription license manager servers—These keep track of which user has subscribed to what applications under what license etc. Compared to the other two types of servers it is characterized by: medium traffic, manageable number, and less likely to go down.

[0229] 3: App Servers 1710—These are the servers to which the users go to for application pages. Compared to the other two types of servers it is characterized by: highest traffic, most number of them, most likely to go down either due to hardware failure or application re-configuration.

[0230] Server Lists

[0231] Clients 1704 subscribe and unsubscribe to applications via the ASP Web server 1703. At that point, instead of getting a primary and a secondary server that can perform the job, the ASP Web server 1703 gives them a non-prioritized list of a large number of SLM servers 1706 that can do the job. When the application starts to run, each client contacts the SLM servers 1707, 1708, 1709 and receive its application server list 1705 that can serve the application in question and also receive the access tokens that can be used to validate themselves with the application servers 1710-1715. All access tokens have an expiration time after which they need to be renewed.

[0232] Server Selection

[0233] Having gotten a server list for each type of server 1705, 1706, the client 1704 will decide which specific server to send its request to. In a basic implementation, a server is picked randomly from the list, which will distribute the client's load on the servers very close to evenly. An alternative preferred implementation will do as follows:

[0234] a) Clients will initially pick servers from the list randomly, but they will also keep track of the overall response time they get from each request; and

[0235] b) As each client learns about response times for each server, it can be more intelligent (rather than random) and pick the most responsive server. It is believed that the client is better suited at deciding which server is most responsive because it can keep track of the round trip response time.

[0236] Client-side Hardware Fail Over

[0237] The server selection logic provides hardware failover in the following manner:

[0238] a) If a server does not respond, i.e., times out, the client 1704 will pick another server from its list 1705, 1706 and re-send the request. Since all the servers in the client's server list 1705, 1706 are capable of processing the client's request, there are no questions of incompatibility.

[0239] b) If a SAS client 1704 gets a second time out, i.e., two servers are down, it re-sends the request to multiple servers from its list 1705, 1706 in parallel. This approach staggers the timeouts and reduces the overall delay in processing a request.

[0240] c) In case of a massive hardware failure, all servers in the client's list 1705, 1706 may be down. At this point, the client will use the interfaces to refresh its server list. This is where the three tiers of servers become important:

[0241] 1) If the client 1704 want to refresh its App server list 1705, it will contact an SLM server 1707, 1709 in its list of SLM servers 1706. Again, the same random (SLM) server selection order is

utilized here. Most of the time, this request will be successful and the client will get an updated list of app servers.

[0242] 2) If for some reason all of the SLM servers 1707, 1709 in the client's list 1706 are down, it will contact the ASP Web server 1703 to refresh its SLM server list 1706.

[0243] This 3-tiered approach significantly reduces the impact of a single point of failure—the ASP Web server 1703, effectively making it a fail over of a fail over.

[0244] Server Load Balancing

[0245] In a preferred embodiment of the invention, a server side monitor 1702 keeps track of the overall health and response times for each server request. The Monitor performs this task for all Application and SLM servers. It posts prioritized lists of SLM servers and app servers 1701 that can serve each of the apps in a database shared by the monitor 1702 and all servers. The monitor's algorithm for prioritizing server lists is dominated by the server's response time for each client request. If any servers fail, the monitor 1702 informs the ASP 1703 and removes it from the server list 1701. Note that the server lists 1705, 1706 that the client 1704 maintains are subsets of lists the monitor 1702 maintains in a shared database 1701.

[0246] Since all servers can access the shared database 1701, they know how to 'cut' a list of servers to a client. For example, the client starts to run an SAS application or it wants to refresh its app server list: It will contact an SLM server and the SLM server will access the database 1701 and cut a list of servers that are most responsive (from the server's prospective).

[0247] In this scheme, the server monitor 1702 is keeping track of what it can track the best: how effectively servers are processing client requests (server's response time). It does not track the network propagation delays etc. that can significantly contribute to a client's observed response time.

[0248] ASP Managing Hardware Failovers

[0249] The foregoing approaches provide an opportunity for ASPs to better manage massive scale failures. Specifically, when an ASP 1703 realizes that massive numbers of servers are down, it can allocate additional resource on a temporary basis. The ASP 1703 can update the central database 1701 such that clients will receive only the list that the ASP 1703 knows to be up and running. This includes any temporary resources added to aid the situation. A particular advantage of this approach is that ASP 1703 doesn't need special actions, e.g., emails or phone support, to route clients over to these temporary resources; the transition happens automatically.

[0250] Handling Client Crashes and Client Evictions

[0251] To prevent the same user from running the same application from multiple machines, the SLM servers 1707, 1708, 1709 track what access tokens have been handed to what users. The SAS file system tracks the beginning and end of applications. The user's SAS client software asks for an access token from the SLM servers 1707, 1708, 1709 at the beginning of an application if it already does not have one and it releases the access token when the application ends. The SLM server makes sure that at a given point only one access token has been given to a particular user. In this manner, the user can run the application from multiple

machines, but only from one at a particular time. However, if the user's machine crashes before the access token has been relinquished or if for some reason the ASP 1703 wants to evict a user, the access token granted to the user must be made invalid. To perform this, the SLM server gets the list of application servers 1705 that have been sent to the client 1704 for serving the application and sends a message to those application servers 1710, 1711, 1713, 1714 to stop serving that particular access token. This list is always maintained in the database so that every SLM server can find out what list is held by the user's machine. The application servers before servicing any access token must check with this list to ensure that the access token has not become invalid. Once the access token expires, it can be removed from this list.

Server-side Performance Optimization

[0252] This section describes approaches that can be taken to reduce client-side latency (the time between when an application page is needed and when it is obtained) and improve Application Server scalability (a measure of the number of servers required to support a given population of clients). The former directly affects the perceived performance of an application by an end user (for application features that are not present in the user's cache), while the latter directly affects the cost of providing application streaming services to a large number of users.

[0253] Application Server Operation

[0254] The basic purpose of the Application Server is to return Application File Pages over the network as requested by a client. The Application Server holds a group of Stream Application Sets from which it obtains the Application File Pages that match a client request. The Application Server is analogous to a typical network file system (which also returns file data), except it is optimized for delivery of Application file data, i.e., code or data that belong directly to the application, produced by the software provider, as opposed to general user file data (document files and other content produced by the users themselves). The primary differences between the Application Server and a typical network file system are:

- [0255] 1. The restriction to handle only Application file data allows the Application Server to only service read requests, with writes being disallowed or handled on the client itself in a copy-on-write manner;
- [0256] 2. Access checks occur at the application level, that is a client is given all-or-none access to files for a given software application;
- [0257] 3. The Application Server is designed to operate across the Internet, as opposed to typical network file systems, which are optimized to run over LANs. This brings up additional requirements of handling server failures, maximizing network bandwidth and minimizing latency, and handling security; and
- [0258] 4. The Application Server is application-aware, unlike typical network file systems, which treat all software application files the same as all other files. This allows the Application Server to use and collect per-application access profile information along with other statistics.

[0259] To service a client request, the Application Server software component keeps master copies of the full Application Stream Sets on locally accessible persistent storage. In main memory, the Application Server maintains a cache of commonly accessed Application File Pages. The primary steps taken by the Application Server to service a client request are:

- [0260] 1. Receive and decode the client request;
- [0261] 2. Validate the client's privilege to access the requested data, e.g., by means of a Kerberos-style ticket issued by a trusted security service;
- [0262] 3. Look up the requested data in the main memory cache, and failing that, obtain it from the master copy on disk while placing it in the cache; and
- [0263] 4. Return the File Pages to the client over the network.

[0264] The techniques used to reduce latency and improve server scalability (the main performance considerations) are described below.

[0265] Server Optimization Features

[0266] Read-Only File System for Application Files—Because virtually all application files (code and data) are never written to by users, virtually the entire population of users have identical copies of the application files. Thus a system intending to deliver the application files can distribute a single, fixed image across all servers. The read-only file system presented by the Application Server represents this sharing, and eliminates the complexities of replication management, e.g., coherency, that occur with traditional network file systems. This simplification enables the Application Servers to respond to requests more quickly, enables potential caching at intervening nodes or sharing of caches across clients in a peer-to-peer fashion, and facilitates fail over, since with the read-only file system the Application File Pages as identified by the client (by a set of unique numbers) will always globally refer to the same content in all cases.

[0267] Per-page Compression—Overall latency observed by the client can be reduced under low-bandwidth conditions by compressing each Application File Page before sending it. Referring to FIG. 18, the benefits of the use of compression in the streaming of Application File Pages, is illustrated. The client 1801 and server 1802 timelines are shown for a typical transfer of data versus the same data sent in a compressed form. The client requests the data from the server 1803. The server processes the request 1804 and begins sending the requested data. The timelines then diverge due to the ability to stream the compressed data 1805 faster than the uncompressed data 1806.

[0268] With respect to FIG. 19, the invention's pre-compression of Application File Pages process is shown. The Builder generates the stream application sets 1901, 1902 which are then pre-compressed by the Stream Application Set Post-Processor 1903. The Stream Application Set Post-Processor 1903 stores the compressed application sets in the persistent storage device 1904. Any client requests for data are serviced by the Application Server which sends the pre-compressed data to the requesting client 1905. The reduction in size of the data transmitted over the network reduces the time to arrival (though at the cost of some processing time on the client to decompress the data). When

the bandwidth is low relative to processing power, e.g., 256 kbps with a Pentium-III-600, this can reduce latency significantly.

[0269] Page-set Compression—When pages are relatively small, matching the typical virtual memory page size of 4 kB, adaptive compression algorithms cannot deliver the same compression ratios that they can for larger blocks of data, e.g., 32 kB or larger. Referring to **FIG. 20**, when a client **2001** requests multiple Application File Pages at one time **2002**, the Application Server **2006** can concatenate all the requested pages and compress the entire set at once **2004**, thereby further reducing the latency the client will experience due to the improved compression ratio. If the pages have already been compressed **2003**, then the request is fulfilled from the cache **2007** where the compressed pages are stored. The server **2006** responds to the client's request through the transfer of the compressed pages **2005**.

[0270] Post-processing of Stream Application Sets—The Application Server may want to perform some post processing of the raw Stream Application Sets in order to reduce its runtime-processing load, thereby improving its performance. One example is to pre-compress all Application File Pages contained in the Stream Application Sets, saving a great deal of otherwise repetitive processing time. Another possibility is to rearrange the format to suit the hardware and operating system features, or to reorder the pages to take advantage of access locality.

[0271] Static and Dynamic Profiling—With respect to **FIG. 21**, since the same application code is executed in conjunction with a particular Stream Application Set **2103** each time, there will be a high degree of temporal locality of referenced Application File Pages, e.g., when a certain feature is invoked, most if not all the same code and data is referenced each time to perform the operation. These access patterns can be collected into profiles **2108**, which can be shipped to the client **2106** to guide its prefetching (or to guide server-based **2105** prefetching), and they can be used to pre-package groups of Application File Pages **2103**, **2104** together and compress them offline as part of a post-processing step **2101**, **2102**, **2103**. The benefit of the latter is that a high compression ratio can be obtained to reduce client latency without the cost of runtime server processing load (though only limited groups of Application File Pages will be available, so requests which don't match the profile would get a superset of their request in terms of the pre-compressed groups of Application File Pages that are available).

[0272] Fast Server-Side Client Privilege Checks—Referring to **FIG. 22**, having to track individual user's credentials, i.e., which Applications they have privileges to access, can limit server scalability since ultimately the per-user data must be backed by a database, which can add latency to servicing of user requests and can become a central bottleneck. Instead, a separate License Server **2205** is used to offload per-user operations to grant privileges to access application data, and thereby allow the two types of servers **2205**, **2210** to scale independently. The License Server **2205** provides the client an Access Token (similar to a Kerberos ticket) that contains information about what application it represents rights for along with an expiration time. This simplifies the operations required by the Application Server **2210** to validate a client's privileges **2212**. The Application

Server **2210** needs only to decrypt the Access Token (or a digest of it) via a secret key shared **2209** with the License Server **2205** (thus verifying the Token is valid), then checking the validity of its contents, e.g., application identifier, and testing the expiration time. Clients **2212** presenting Tokens for which all checks pass are granted access. The Application Server **2210** needs not track anything about individual users or their identities, thus not requiring any database operations. To reduce the cost of privilege checks further, the Application Server **2210** can keep a list of recently used Access Tokens for which the checks passed, and if a client passes in a matching Access Token, the server need only check the expiration time, with no further decryption processing required.

[0273] Connection Management—Before data is ever transferred from a client to a server, the network connection itself takes up one and a half network round trips. This latency can adversely impact client performance if it occurs for every client request. To avoid this, clients can use a protocol such as HTTP 1.1, which uses persistent connections, i.e., connections stay open for multiple requests, reducing the effective connection overhead. Since the client-side file system has no knowledge of the request patterns, it will simply keep the connection open as long as possible. However, because traffic from clients may be bursty, the Application Server may have more open connections than the operating system can support, many of them being temporarily idle. To manage this, the Application Server can aggressively close connections that have been idle for a period of time, thereby achieving a compromise between the client's latency needs and the Application Server's resource constraints. Traditional network file systems do not manage connections in this manner, as LAN latencies are not high enough to be of concern.

[0274] Application Server Memory Usage/Load Balancing—File servers are heavily dependent on main memory for fast access to file data (orders of magnitude faster than disk accesses). Traditional file servers manage their main memory as cache of file blocks, keeping the most commonly accessed ones. With the Application Server, the problem of managing main memory efficiently becomes more complicated due to there being multiple servers providing a shared set of applications. In this case, if each server managed its memory independently, and was symmetric with the others, then each server would only keep those file blocks most common to all clients, across all applications. This would cause the most common file blocks to be in the main memory of each and every Application server, and since each server would have roughly the same contents in memory, adding more servers won't improve scalability by much, since not much more data will be present in memory for fast access. For example, if there are application A (accessed 50% of the time), application B (accessed 40% of the time), and application C (accessed 10% of the time), and application A and B together consume more memory cache than a single Application Server has, and there are ten Application Servers, then none of the Application Servers will have many blocks from C in memory, penalizing that application, and doubling the number of servers will improve C's performance only minimally. This can be improved upon by making the Application Servers asymmetric, in that a central mechanism, e.g., system administrator, assigns individual Application Servers different Application Stream Sets to provide, in accordance with

popularity of the various applications. Thus, in the above example, of the ten servers, five can be dedicated to provide A, four to B, and one to C, (any extra memory available for any application) making a much more effective use of the entire memory of the system to satisfy the actual needs of clients. This can be taken a step further by dynamically (and automatically) changing the assignments of the servers to match client accesses over time, as groups of users come and go during different time periods and as applications are added and removed from the system. This can be accomplished by having servers summarize their access patterns, send them to a central control server, which then can reassign servers as appropriate.

Conversion of Conventional Applications to Enable Streamed Delivery and Execution

[0275] The Streamed Application Set Builder is a software program. It is used to convert locally installable applications into a data set suitable for streaming over a network. The streaming-enabled data set is called the Streamed Application Set (SAS). This section describes the procedure used to convert locally installable applications into the SAS.

[0276] The application conversion procedure into the SAS consists of several phases. In the first phase, the Builder program monitors the installation process of a local installation of the desired application for conversion. The Builder monitors any changes to the system and records those changes in an intermediate data structure. After the application is installed locally, the Builder enters the second phase of the conversion. In the second phase, the Builder program invokes the installed application executable and obtains sequences of frequently accessed file blocks of this application. Both the Builder program and the client software use the sequence data to optimize the performance of the streaming process. Once the sequencing information is obtained, the Builder enters the final phase of the conversion. In this phase, the Builder gathers all data obtained from the first two phases and processes the data into the Streamed Application Set.

[0277] Detailed descriptions of the three phases of the Builder conversion process are described in the following sections. The three phases consist of installation monitoring (IM), application profiling (AP), and SAS packaging (SP). In most cases, the conversion process is general and applicable to all types of systems. In places where the conversion is OS dependent, the discussion is focused on the Microsoft Windows environment. Issues on conversion procedure for other OS environments are described in later sections.

[0278] Installation Monitoring (IM)

[0279] In the first phase of the conversion process, the Builder Installation Monitor (IM) component invokes the application installation program that installs the application locally. The IM observes all changes to the local computer during the installation. The changes may involve one or more of the following: changes to system or environment variables; and modifications, addition, or deletion of one or more files. Initial system variables, environment variables, and files are accounted for by the IM before the installation begins to give a more accurate picture of any changes that are observed. The IM records all changes to the variables and files in a data structure to be sent to the Builder's Streamed Application Packaging component. In the following paragraphs, detailed description of the Installation Monitor is described for Microsoft Windows environment.

[0280] In Microsoft Windows system, the Installation Monitor (IM) component consists of a kernel-mode driver subcomponent and a user-mode subcomponent. The kernel-mode driver is hooked into the system registry and file system function interface calls. The hook into the registry function calls allows the IM to monitor system variable changes. The hook into the file system function calls enables the IM to observe file changes.

[0281] Installation Monitor Kernel-Mode subcomponent (IM-KM)

[0282] With respect to FIG. 23, the IM-KM subcomponent monitors two classes of information during an application installation: system registry modifications and file modifications. Different techniques are used for each of these classes.

[0283] To monitor system registry modifications **2314**, the IM-KM component replaces all kernel-mode API calls in the System Service Table that write to the system registry with new functions defined in the IM-KM subcomponent. When an installation program calls one of the API functions to write to the registry **2315**, the IM-KM function is called instead, which logs the modification data **2317** (including registry key path, value name and value data) and then forwards the call to the actual operating system defined function **2318**. The modification data is made available to the IM-UM subcomponent through a mechanism described below.

[0284] To monitor file modifications, a filter driver is attached to the file system's driver stack. Each time an installation program modifies a file on the system, a function is called in the IM-KM subcomponent, which logs the modification data (including file path and name) and makes it available to the IM-UM using a mechanism described below.

[0285] The mechanisms used for monitoring registry modifications and file modifications will capture modifications made by any of the processes currently active on the computer system. While the installation program is running, other processes that, for example, operate the desktop and service network connections may be running and may also modify files or registry data during the installation. This data must be removed from the modification data to avoid inclusion of modifications that are not part of the application installation. The IM-KM uses process monitoring to perform this filtering.

[0286] To do process monitoring, the IM-KM installs a process notification callback function that is called each time a process is created or destroyed by the operating system. Using this callback function, the operating system sends the created process ID as well as the process ID of the creator (or parent) process. The IM-KM uses this information, along with the process ID of the IM-UM, to create a list of all of the processes created during the application installation. The IM-KM uses the following algorithm to create this list:

[0287] 1. Before the installation program is launched by the IM-UM, the IM-UM passes its own process ID to the IM-KM. Since the IM-UM is launching the installation application, the IM-UM will be the ancestor (parent, grandparent, etc.) of any process (with one exception—the Installer Service described below) that modifies files or registry data as part of the application installation.

[0288] 2. When the installation is launched and begins the creating processes, the IM-KM process monitoring logic is notified by the operating system via the process notification callback function.

[0289] 3. If the creator (parent) process ID sent to the process notification callback function is already in the process list, the new process is included in the list.

[0290] When an application on the system modifies either the registry or files, and the IM-KM monitoring logic captures the modification data, but before making it available to the IM-UM, it first checks to see if the process that modified the registry or file is part of the process list. It is only made available to the IM-UM if it is in the process list.

[0291] It is possible that a process that is not a process ancestor of the IM-UM will make changes to the system as a proxy for the installation application. Using interprocess communication, an installation program may request that an Installer Service make changes to the machine. In order for the IM-KM to capture changes made by the Installer Service, the process monitoring logic includes a simple rule that also includes any registry or file changes that have been made by a process with the same name as the Installer Service process. On Windows 2000, for example, the Installer Service is called "msi.exe".

[0292] Installation Monitor User-Mode subcomponent (IM-UM)

[0293] The IM kernel-mode (IM-KM) driver subcomponent is controlled by the user-mode subcomponent (IM-UM). The IM-UM sends messages to the IM-KM to start 2305 and stop 2309 the monitoring process via standard I/O control messages known as IOCTLs. The message that starts the IM-KM also passes in the process ID of the IM-UM to facilitate process monitoring described in the IM-KM description.

[0294] When the installation program 2306 modifies the computer system, the IM-KM signals a named kernel event. The IM-UM listens for these events during the installation. When one of these events is signaled, the IM-UM calls the IM-KM using an IOCTL message. In response, the IM-KM packages data describing the modification and sends it to the IM-UM 2318.

[0295] The IM-UM sorts this data and removes duplicates. Also, it parameterizes all local-system-specific registry keys, value names, and values. For example, an application will often store paths in the registry that allow it to find certain files at run-time. These path specifications must be replaced with parameters that can be recognized by the client installation software.

[0296] A user interface is provided for the IM-UM that allows an operator of the Builder to browse through the changes made to the machine and to edit the modification data before the data is packaged into an SAS.

[0297] Once the installation of an application is completed 2308, the IM-UM forwards data structures representing the file and registry modifications to the Streamed Application Packager 2312.

[0298] Monitoring Application Configuration

[0299] Using the techniques described above for monitoring file modifications and monitoring registry modifications, the builder can also monitor a running application that is being configured for a particular working environment. The data acquired by the IM-UM can be used to duplicate the same configuration on multiple machines, making it unnecessary for each user to configure his/her own application installation.

[0300] An example of this is a client server application for which the client will be streamed to the client computer system. Common configuration modifications can be captured by the IM and packed into the SAS. When the application is streamed to the client machine, it is already configured to attach to the server and begin operation.

[0301] Application Profiling (AP)

[0302] Referring to FIG. 24, in the second phase of the conversion process, the Builder's Application Profiler (AP) component invokes the application executable program that is installed during the first phase of the conversion process. Given a particular user input, the executable program file blocks are accessed in a particular sequence. The purpose of the AP is to capture the sequence data associated with some user inputs. This data is useful in several ways.

[0303] First of all, frequently used file blocks can be streamed to the client machine before other less used file blocks. A frequently used file block is cached locally on the client cache before the user starts using the streamed application for the first time. This has the effect of making the streamed application as responsive to the user as the locally installed application by hiding any long network latency and bandwidth problems.

[0304] Secondly, the frequently accessed files can be reordered in the directory to allow faster lookup of the file information. This optimization is useful for directories with large number of files. When the client machine looks up a frequently used file in a directory, it finds this file early in the directory search. In an application run with many directory queries, the performance gain is significant.

[0305] Finally, the association of a set of file blocks with a particular user input allows the client machine to request minimum amount of data needed to respond to that particular user command. The profile data association with a user command is sent from the server to the client machine in the AppInstallBlock during the 'preparation' of the client machine for streaming. When the user on a client machine invokes a particular command, the codes corresponding to this command are prefetched from the server.

[0306] The Application Profiler (AP) is not as tied to the system as the Installation Monitor (IM) but there are still some OS dependent issues. In the Windows system, the AP still has two subcomponents: kernel-mode (AP-KM) subcomponent and the user-mode (AP-UM) subcomponent. The AP-UM invokes the converting application executable. Then AP-UM starts the AP-KM 2403, 2413 to track the sequences of file block accesses by the application 2414. Finally when the application exits after the pre-specified amount of sequence data is gathered, the AP-UM retrieves the data from AP-KM 2406, 2417 and forwards the data to the Streamed Application Packager 2411.

[0307] Streamed Application Set Packaging (SP)

[0308] With respect to **FIG. 25**, in the final phase of the conversion process, the Builder's Streamed Application Set Packager (SP) component processes the data structure from IM and AP to create a data set suitable for streaming over the network. This converted data set is called the Streamed Application Set **2520** and is suitable for uploading to the Streamed Application Servers for subsequent downloading by the stream client. **FIG. 23** shows the control flow of the SP module.

[0309] Each file included in a Streamed Application Set **2520** is assigned a file number that identifies it within the SAS.

[0310] The Streamed Application Set **2520** consists of the three sets of data from the Streamed Application Server's perspective. The three types of data are the Concatenation Application File (CAF) **2519**, **2515**, the Size Offset File Table (SOFT) **2518**, **2514**, **2507**, and the Root Versioning Table (RVT) **2518**, **2514**.

[0311] The CAF **2519**, **2515** consists of all the files and directories needed to stream to the client. The CAF can be further divided into two subsets: initialization data set and the runtime data set.

[0312] The initialization data set is the first set of data to be streamed from the server to the client. This data set contains the information captured by IM and AP needed by the client to prepare the client machine for streaming this particular application. This initialization data set is also called the AppInstallBlock (AIB) **2516**, **2512**. In addition to the data captured by the IM and AP modules, the SP is also responsible for merging any new dynamic profile data gathered from the client and the server. This data is merged into the existing AppInstallBlock to optimize subsequent streaming of the application **2506**. With the list of files obtained by the IM during application installation, the SP module separates the list of files into regular streamed files and the spoof files. The spoof files consists of those files not installed into standard application directory. This includes files installed into system directories and user specific directories. The detailed format description of the AppInstallBlock is described later.

[0313] The second part of the CAF consists of the runtime data set. This is the rest of the data that is streamed to the client once the client machine is initialized for this particular application. The runtime data consists of all the regular application files and the directories containing information about those application files. Detailed format description of the runtime data in the CAF section is described below. The SP appends every file recorded by IM into the CAF and generates all directories. Each directory contains list of file name, file number, and the metadata associated with the files in that particular directory **2517**, **2513**.

[0314] The SP is also responsible for generating the SOFT file **2518**, **2514**, **2507**. This is a table used to index into the CAF for determining the start and the end of a file. The server uses this information to quickly access the proper file within the directory for serving the proper file blocks to the client.

[0315] Finally, the SP creates the RVT file **2518**, **2514**. The Root Versioning Table contains a list of root file number and version number. This information is used to track minor application patches and upgrades. Each entry in the RVT corresponds to one patch level of the application with a

corresponding new root directory. The SP generates new parent directories when any single file in that subdirectory tree is changed from the patched upgrade. The RVT is uploaded to the server and requested by the client at appropriate time for the most updated version of the application by a simple comparison of the client's Streamed Application root file number with the RVT table located on the server once the client is granted access authorization to retrieve the data.

[0316] With respect to **FIGS. 26a** and **26b**, the internal representation of a simple SAS before and after a new file is added to a new version of an application is shown. The original CAF **2601** has the new files **2607** appended to it **2604** by the SP. The SOFT **2602** is correspondingly updated **2605** with the appropriate table entries **2608** to index the new files **2607** the CAF **2604**. Finally, the RVT **2603** is updated **2606** to reflect the new version **2609**.

[0317] Data Flow Description

[0318] The following list describes the data that is passed from one component to another. The numbers corresponds to the numbering in the Data Flow diagram of **FIG. 27**.

[0319] Install Monitor

[0320] 1. The full pathname of the installer program is queried from the user by the Builder program and is sent to the Install Monitor.

[0321] 2. The Install Monitor (IM) user-mode sends a read request to the OS to spawn a new process for installing the application on the local machine.

[0322] 3. The OS loads the application installer program into memory and runs the application installer program. OS returns the process ID to the IM.

[0323] 4. The application program is started by the IM-UM.

[0324] 5. The application installer program sends read request to the OS to read the content of the CD.

[0325] 6. The CD media data files are read from the CD.

[0326] 7. The files are written to the appropriate location on the local hard-drive.

[0327] 8. IM kernel-mode captures all file read/write requests and all registry read/write requests by the application installer program.

[0328] 9. IM user-mode program starts the IM kernel-mode program and sends the request to start capturing all relevant file and registry data.

[0329] 10. IM kernel-mode program sends the list of all file modifications, additions, and deletions; and all registry modifications, additions, and deletions to the IM user-mode program.

[0330] 11. IM informs the SAS Builder UI that the installation monitoring has completed and displays the file and registry data in a graphical user interface.

[0331] Application Profiler

[0332] 12. Builder UI invokes Application Profiling (AP) user-mode program by querying the user for the list of application executable names to be profiled.

The AP user-mode also queries the user for division of file blocks into sections corresponding to the commands invoked by the user of the application being profiled.

- [0333] 13. Application Profiler user-mode invokes each application executable in succession by spawning each program in a new process. The OS loads the application executable into memory, runs the application executable, and returns the process ID to the Application Profiler.
- [0334] 14. During execution, the OS on behalf of the application, sends the request to the hard-drive controller to read the appropriate file blocks into memory as needed by the application.
- [0335] 15. The hard-drive controller returns all file blocks requested by the OS.
- [0336] 16. Every file access to load the application file blocks into memory is monitored by the Application Profiler (AP) kernel-mode program.
- [0337] 17. The AP user-mode program informs the AP kernel-mode program to start monitoring relevant file accesses.
- [0338] 18. Application Profiler kernel-mode returns the file access sequence and frequency information to the user-mode program.
- [0339] 19. Application Profiler returns the processed profile information. This has two sections. The first section is used to identify the frequency of files accessed. The second section is used to list the file blocks for prefetch to the client. The file blocks can be further categorized into subsections according to the commands invoked by the user of the application.
- [0340] SAS Packager
- [0341] 20. The Streamed Application Packager receives files and registry changes from the Builder UI. It also receives the file access frequency and a list of file blocks from the Profiler. File numbers are assigned to each file.
- [0342] 21. The Streamed Application Packager reads all the file data from the hard-drive that are copied there by the application installer.
- [0343] 22. The Streamed Application Packager also reads the previous version of Streamed Application Set for support of minor patch upgrades.
- [0344] 23. Finally, the new Streamed Application Set data is stored back to non-volatile storage.
- [0345] 24. For new profile data gathered after the SAS has been created, the packager is invoked to update the AppInstallBlock in the SAS with the new profile information.
- [0346] Mapping of Data Flow to Streamed Application Set (SAS)
- [0347] Step 7: Data gathered from this step consist of the registry and file modification, addition, and deletion. The data are mapped to the AppInstallBlock's File Section, Add Registry Section, and Remove Registry Section.
- [0348] Step 8 & 19: File data are copied to the local hard-drive then concatenated into part of the CAF contents. Part of the data is identified as spoof or copied files and the file names and/or contents are added to the AppInstallBlock.
- [0349] Step 15 & 21: Part of the data gathered by the Profiler or gathered dynamically by the client is used in the AppInstallBlock as a prefetch hint to the client. Another part of the data is used to generate a more efficient SAS Directory content by ordering the files according the usage frequency.
- [0350] Step 20: If the installation program was an upgrade, SAS Packager needs previous version of the Streamed Application Set data. Appropriate data from the previous version are combined with the new data to form the new Streamed Application Set.
- [0351] Format of Streamed Application Set
- [0352] Referring to FIG. 28, the format of the Streamed Application Set consists of three sections: Root Version Table (RVT) 2802, Size Offset File Table (SOFT) 2803, and Concatenation Application File (CAF) 2801. The RVT section 2802 lists all versions of the root file numbers available in a Streamed Application Set. The SOFT 2803 section consists of the pointers into the CAF 2801 section for every file in the CAF 2801. The CAF section 2801 contains the concatenation of all the files associated with the streamed application. The CAF section 2801 is made up of regular application files, SAS directory files 2805, AppInstallBlock 2804, and icon files. See below for detailed information on the content of the SAS file.
- [0353] OS Dependent Format
- [0354] The format of the Streamed Application Set is designed to be as portable as possible across all OS platforms. At the highest level, the format of CAF, SOFT, and RVT that make up the format of the Streamed Application Set are completely portable across any OS platforms. One piece of data structure that is OS dependent is located in the initialization data set called AppInstallBlock in the CAF. This data is dependent on the type of OS due to the differences in low-level system differences among different OS. For example, Microsoft Windows contains system environment variables called the Registry. The Registry has a particular tree format not found in other operating systems like UNIX or MacOS.
- [0355] Another OS dependent piece of data is located in the SAS directory files in the CAF. The directory contains file metadata information specific to Windows files. For example on the UNIX platform, there does not exist a hidden flag. This platform specific information needs to be transmitted to the client to fool the streamed application into believing that the application data is located natively on the client machine with all the associated file metadata intact. If SAS is to be used to support streaming of UNIX or MacOS applications, file metadata specific to those systems will need to be recorded in the SAS directory.
- [0356] Lastly, the format of the file names itself is OS dependent. Applications running on the Windows environment inherit the old MSDOS 8.3 file name format. To support this properly, the format of the SAS Directory file in

CAF requires an additional 8.3 field to store this information. This field is not needed in other operating systems like UNIX or MacOS.

[0357] Device Driver Versus File System Paradigm

[0358] Referring to FIGS. 29 and 30, the SAS client Prototype is implemented using the 'device driver' paradigm. One of the advantages of the device driver approach is that the caching of the sector blocks is simpler. In the device driver approach, the client cache manager 2902 only needs to track sector numbers in its cache 2903. In comparison with the 'file system' paradigm, more complex data structure are required by the client cache manager 3002 to track a subset of a file that is cached 3003 on a client machine. This makes the device driver paradigm easier to implement.

[0359] On the other hand, there are many drawbacks to the device driver paradigm. On the Windows system, the device driver approach has a problem supporting large numbers of applications. This is due to the phantom limitation on the number of assignable drive letters available in a Windows system (26 letters); and the fact that each application needs to be located on its own device. Note that having multiple applications on a device is possible, but then the server needs to maintain an exponential number of devices that support all possible combinations of applications. This is too costly to maintain on the server.

[0360] Another problem with the device driver approach is that the device driver operates at the disk sector level. This is a much lower level than operating at the file level in the file system approach. The device driver does not know anything about files. Thus, the device driver cannot easily interact with the file level issues. For example, spoofing files and interacting with the OS file cache is nearly impossible with the device driver approach. Both spoofing files and interacting with the OS buffer cache are needed to get higher performance. In addition, operating at the file system level lends to optimizing the file system to better suit this approach of running applications. For instance, typical file systems do logging and make multiple disk sector requests at a time. These are not needed in this approach and are actually detrimental to the performance. When operating at the device driver level, not much can be done about that. Also, operating at the file system level helps in optimizing the protocol between the client and the server.

[0361] Implementation in the Prototype

[0362] The prototype has been implemented and tested successfully on the Windows and Linux distributed system. The prototype is implemented using the device driver paradigm as described above. The exact procedure for streaming application data is described next.

[0363] First of all, the prototype server is started on either the Windows-based or Linux-based system. The server creates a large local file mimicking large local disk images. Once the disk images are prepared, it listens to TCP/IP ports for any disk sector read or write requests.

[0364] Implementation of SAS Builder

[0365] The SAS Builder has been implemented on the Windows-based platform. A preliminary Streamed Application Set file has been created for real-world applications like Adobe Photoshop. A simple extractor program has been

developed to extract the SAS data on a pristine machine without the application installed locally. Once the extractor program is run on the SAS, the application runs as if it was installed locally on that machine. This process verifies the correctness of the SAS Building process.

Format of Streamed Application Set (SAS)

[0366] Functionality

[0367] The streamed application set (SAS), illustrated in FIG. 28, is a data set associated with an application suitable for streaming over the network. The SAS is generated by the SAS Builder program. The program converts locally installable applications into the SAS. This section describes the format of the SAS.

[0368] Note: Fields greater than a single byte are stored in little-endian format. The Stream Application Set (SAS) file size is limited to 2^{64} bytes. The files in the CAF section are laid out in the same order as its corresponding entries in the SOFT table.

[0369] Data Type Definitions

[0370] The format of the SAS consists of four sections: header, Root Version Table (RVT), Size Offset File Table (SOFT), and Concatenation Application File (CAF) sections.

[0371] 1. Header Section

[0372] MagicNumber [4 bytes]: Magic number identifying the file content with the SAS.

[0373] ESSVersion [4 bytes]: Version number of the SAS file format.

[0374] AppID [16 bytes]: A unique application ID for this application. This field must match the AppID located in the AppInstallBlock. Window Guidgen API is used to create this identifier.

[0375] Flags [4 bytes]: Flags pertaining to SAS.

[0376] Reserved [32 bytes]: Reserved spaces for future.

[0377] RVTOffset [8 bytes]: Byte offset into the start of the RVT section.

[0378] RVTSIZE [8 bytes]: Byte size of the RVT section.

[0379] SOFTOffset [8 bytes]: Byte offset into the start of the SOFT section.

[0380] SOFTSIZE [8 bytes]: Byte size of the SOFT section.

[0381] CAFOffset [8 bytes]: Byte offset into the start of the CAF section.

[0382] CAFSIZE [8 bytes]: Byte size of the CAF section.

[0383] VendorNameIsAnsi [1 byte]: 0 if the vendor name is in Unicode format. 1 if the vendor name is in ANSI format.

[0384] VendorNameLength [4 bytes]: Byte length of the vendor name.

- [0385] VendorName [X bytes]: Name of the software vendor who created this application. e.g., "Microsoft". Null-terminated.
- [0386] AppBaseNameIsAnsi [1 byte]: 0 if the vendor name is in Unicode format. 1 if the vendor name is in ANSI format.
- [0387] AppBaseNameLength [4 bytes]: Byte length of the application base name.
- [0388] AppBaseName [X bytes]: Base name of the application. e.g., "Word 2000". Null-terminated.
- [0389] MessageIsAnsi [1 byte]: 0 if the vendor name is in Unicode format. 1 if the vendor name is in ANSI format.
- [0390] MessageLength [4 bytes]: Byte length of the message text.
- [0391] Message [X bytes]: Message text. Null-terminated.
- [0392] 2. Root Version Table (RVT) Section
- [0393] The Root version entries are ordered in a decreasing value according to their file numbers. The Builder generates unique file numbers within each SAS in a monotonically increasing value. So larger root file numbers imply later versions of the same application. The latest root version is located at the top of the section to allow the SAS Server easy access to the data associated with the latest root version.
- [0394] NumberEntries [4 bytes]: Number of patch versions contained in this SAS. The number indicates the number of entries in the Root Version Table (RVT).
- [0395] Root Version structure: (variable number of entries)
- [0396] VersionNumber [4 bytes]: Version number of the root directory.
- [0397] FileNumber [4 bytes]: File number of the root directory.
- [0398] VersionNameIsAnsi [1 byte]: 0 if the vendor name is in Unicode format. 1 if the vendor name is in ANSI format.
- [0399] VersionNameLength [4 bytes]: Byte length of the version name
- [0400] VersionName [X bytes]: Application version name. e.g., "SP 1".
- [0401] Metadata [32 bytes]: See SAS FS Directory for format of the metadata.
- [0402] 3. Size Offset File Table (SOFT) Section
- [0403] The SOFT table contains information to locate specific files in the CAF section. The entries are ordered according to the file number starting from 0 to NumberFiles-1. The start of the SOFT table is aligned to eight-byte boundaries for faster access.
- [0404] SOFT entry structure: (variable number of entries)
- [0405] Offset [8 bytes]: Byte offset into CAF of the start of this file.
- [0406] Size [8 bytes]: Byte size of this file. The file is located from address Offset to Offset+Size.
- [0407] 4. Concatenation Application File (CAF) Section
- [0408] CAF is a concatenation of all file or directory data into a single data structure. Each piece of data can be a regular file, an AppInstallBlock, an SAS FS directory file, or an icon file.
- [0409] a. Regular Files
- [0410] FileData [X bytes]: Content of a regular file
- [0411] b. AppInstallBlock (See AppInstallBlock section for detailed format) A simplified description of the AppInstallBlock is listed here. The exact detail of the individual fields in the AppInstallBlock are described later.
- [0412] Header section [X bytes]: Header for AppInstallBlock containing information to identify this AppInstallBlock.
- [0413] Files section [X bytes]: Section containing file to be copied or spoofed.
- [0414] AddVariable section [X bytes]: Section containing system variables to be added.
- [0415] RemoveVariable section [X bytes]: Section containing system variables to be removed.
- [0416] Prefetch section [X bytes]: Section containing pointers to file blocks to be prefetched to the client.
- [0417] Profile section [X bytes]: Section containing profile data.
- [0418] Comment section [X bytes]: Section containing comments about AppInstallBlock.
- [0419] Code section [X bytes]: Section containing application-specific code needed to prepare local machine for streaming this application
- [0420] LicenseAgreement section [X bytes]: Section containing licensing agreement message.
- [0421] c. SAS Directory
- [0422] An SAS Directory contains information about the subdirectories and files located within this directory. This information is used to store metadata information related to the files associated with the streamed application. This data is used to fool the application into thinking that it is running locally on a machine when most of the data is resided elsewhere.
- [0423] The SAS directory contains information about files in its directory. The information includes file number, names, and metadata associated with the files.
- [0424] MagicNumber [4 bytes]: Magic number for SAS directory file.
- [0425] ParentFileID [16+4 bytes]: AppID+FileNumber of the parent directory. AppID is set to 0 if the directory is the root.
- [0426] SelfFileID [16+4 bytes]: AppID+FileNumber of this directory.
- [0427] NumFiles [4 bytes]: Number of files in the directory.
- [0428] Variable-Sized File Entry:
- [0429] UsedFlag [1 byte]: 1 for used, 0 for unused.
- [0430] ShortLen [1 byte]: Length of short file name.

- [0431] LongLen [2 byte]: Length of long file name.
- [0432] NameHash [4 bytes]: Hash value of the short file name for quick lookup without comparing whole string.
- [0433] ShortName [24 bytes]: 8.3 short file name in Unicode. Not null-terminated.
- [0434] FileID [16+4 bytes]: AppID+FileNumber of each file in this directory.
- [0435] Metadata [32 bytes]: The metadata consists of file byte size (8 bytes), file creation time (8 bytes), file modified time (8 bytes), attribute flags (4 bytes), SAS flags (4 bytes). The bits of the attribute flags have the following meaning:
 - [0436] Bit 0: Read-only—Set if file is read-only
 - [0437] Bit 1: Hidden—Set if file is hidden from user
 - [0438] Bit 2: Directory—Set if the file is an SAS Directory
 - [0439] Bit 3: Archive—Set if the file is an archive
 - [0440] Bit 4: Normal—Set if the file is normal
 - [0441] Bit 5: System—Set if the file is a system file
 - [0442] Bit 6: Temporary—Set if the file is temporary
- [0443] The bits of the SAS flags have the following meaning:
 - [0444] Bit 0: ForceUpgrade—Used only on root file. Set if client is forced to upgrade to this particular version if the current root version on the client is older.
 - [0445] Bit 1: RequireAccessToken—Set if file require access token before client can read it.
 - [0446] Bit 2: Read-only—Set if the file is read-only
- [0447] LongName [X bytes]: Long filename in Unicode format with null-termination character.
- [0448] d. Icon files
 - [0449] IconFileData [X bytes]: Content of an icon file.

Format of AppInstallBlock

- [0450] Functionality
- [0451] With respect to **FIGS. 31a-31h**, the AppInstallBlock is a block of code and data associated with a particular application. This AppInstallBlock contains the information needed to by the SAS client to initialize the client machine before the streamed application is used for the first time. It also contains optional profiling data for increasing the runtime performance of that streamed application.
- [0452] The AppInstallBlock is created offline by the SAS Builder program. First of all, the Builder monitors the installation process of a local version of the application installation program and records changes to the system. This includes any environment variables added or removed from the system **3103**, and any files added or modified in the

system directories **3102**. Files added to the application specific directory are not recorded in the AppInstallBlock to reduce the amount of time needed to send the AppInstallBlock to the SAS client. Secondly, the Builder profiles the application to obtain the list of critical pages needed to run the application initially and an initial page reference sequence of the pages accessed during a sample run of the application. The AppInstallBlock contains an optional application-specific initialization code **3107**. This code is needed when the default initialization procedure is insufficient to setup the local machine environment for that particular application.

[0453] The AppInstallBlock and the runtime data are packaged into the SAS by the Builder and then uploaded to the application server. After the SAS client is subscribed to an application and before the application is run for the first time, the AppInstallBlock is sent by the server to the client. The SAS client invokes the default initialization procedure and the optional application-specific initialization code **3107**. Together, the default and the application-specific initialization procedure process the data in the AppInstallBlock to make the machine ready for streaming that particular application.

[0454] Data Type Definitions

[0455] The AppInstallBlock is divided into the following sections: header section **3101**, variable section **3103**, file section **3102**, profile section **3105**, prefetch section **3104**, comment section **3106**, and code section **3107**. The header section **3101** contains general information about the AppInstallBlock. The information includes the total byte size and an index table containing size and offset into other sections. In a Windows version, the variable section consists of two registry tree structures to specify the registry entries added or removed from the OS environment. The file section **3102** is a tree structure consisting of the files copied to C drive during the application installation. The profile section **3105** contains the initial set of block reference sequences during Builder profiling of the application. The prefetch section **3104** consists of a subset of profiled blocks used by the Builder as a hint to the SAS client to prefetch initially. The comment section **3106** is used to inform the SAS client user of any relevant information about the application installation. Finally, the code section **3107** contains an optional program tailored for any application-specific installation not covered by the default streamed application installation procedure. In Windows version, the code section contains a Windows DLL. The following is a detailed description of each fields of the AppInstallBlock.

[0456] Note: Little endian format is used for all the fields spanning more than 1 byte. Also, BlockNumber specifies blocks of 4K byte size.

[0457] 1. Header Section

[0458] The header section **3103** contains the basic information about this AppInstallBlock. This includes the versioning information, application identification, and index into other sections of the file.

[0459] Core Header Structure

[0460] AibVersion [4 bytes]: Magic number or appInstallBlock version number (which identifies the version of the appInstallBlock structure rather than the contents).

- [0461] AppId [16 bytes]: this is an application identifier unique for each application. On Windows, this identifier is the GUID generated from the 'guidgen' program. AppId for Word on Win98 will be different from Word on WinNT if it turns out that Word binaries are different between NT and 98.
- [0462] VersionNo [4 bytes]: Version number. This allows us to inform the client that the appInstallBlock has changed for a particular appId. This is useful for changes to the AppInstallBlock due to minor patch upgrades in the application.
- [0463] ClientOSBitMap [4 bytes]: Client OS supported bitmap or ID: for Win2K, Win98, WinNT (and generally for other and multiple OSs).
- [0464] ClientOSServicePack [4 bytes]: For optional storage of the service pack level of the OS for which this appInstallBlock has been created. Note that when this field is set, the multiple OS bits in the above field ClientOSBitMap are not used.
- [0465] Flags [4 bytes]: Flags pertaining to AppInstallBlock
- [0466] Bit 0: Reboot—If set, the SAS client needs to reboot the machine after installing the AppInstallBlock on the client machine.
- [0467] Bit 1: Unicode—If set, the string characters are 2 bytes wide instead of 1 byte.
- [0468] HeaderSize [2 bytes]: Total size in bytes of the header section.
- [0469] Reserved [32 bytes]: Reserved spaces for future.
- [0470] NumberOfSections [1 byte]: Number of sections in the index table.
- [0471] This determines the number of entries in the index table structure described below:
- [0472] Index Table Structure: (Variable Number of Entries)
- [0473] SectionType [1 bytes]: The type of data described in section. 0=file section, 1=variable section, 2=prefetch section, 3=profile section, 4=comment section, 5=code section.
- [0474] SectionOffset [4 bytes]: The offset from the beginning of the file indicates the beginning of section.
- [0475] SectionSize [4 bytes]: The size in bytes of section.
- [0476] Variable Structure
- [0477] ApplicationNameIsAnsi [1 byte]: 1 if ansi, 0 if Unicode.
- [0478] ApplicationNameLength [4 bytes]: Byte size of the application name
- [0479] ApplicationName [X bytes]: Null terminating name of the application
- [0480] 2. File Section
- [0481] The file section 3102 contains a subset of the list of files needed by the application to run properly. This section does not enumerate files located in the standard application program directory. It consists of information about files copied into an 'unusual' directory during the installation of an application. If the file content is small (typically less than 1 MB), the file is copied to the client machine. Otherwise, the file is relocated to the standard program directory suitable for streaming. The file section data is a list of trees stored in a contiguous sequence of address spaces according to the pre-order traversal of the trees. A node in the tree can correspond to one or more levels of directories. A parent-child node pair is combined into a single node if the parent node has only a single child. Parsing the tree from the root of the tree to a leaf node results in a fully legal Windows pathname including the drive letter. Each entry of the node in the tree consists of the following structure:
- [0482] Directory Structure: (Variable Number of Entries)
- [0483] Flags [4 byte]: Bit 0 is set if this entry is a directory
- [0484] NumberOfChildren [2 bytes]: Number of nodes in this directory
- [0485] DirectoryNameLength [4 bytes]: Length of the directory name
- [0486] DirectoryName [X bytes]: Null terminating directory name
- [0487] Leaf Structure: (Variable Number of Entries)
- [0488] Flags [4 byte]: Bit 1 is set to 1 if this entry is a spoof or copied file name
- [0489] FileVersion [8 bytes]: Version of the file GetFileVersionInfo() if the file is win32 file image. Need variable file version size returned by GetFileVersionInfoSize(). Otherwise use file size or file modified time to compare which file is the later version.
- [0490] FileNameLength [4 bytes]: Byte size of the file name
- [0491] FileName [X bytes]: Null terminating file name
- [0492] DataLength [4 bytes]: Byte size of the data. If spoof file, then data is the string of the spoof directory. If copied file, then data is the content of the file
- [0493] Data [X bytes]: Either the spoof file name or the content of the copied file
- [0494] 3. Add Variable and Remove Variable Sections
- [0495] The add and remove variable sections 3103 contain the system variable changes needed to run the application. In a Windows system, each section consists of several number of registry subtrees. Each tree is stored in a contiguous sequence of address spaces according to the pre-order traversal of the tree. A node in the tree can correspond to one or more levels of directory in the registry. A parent-child node pair is combined into a single node if the parent node has only a single child. Parsing the tree from the root of the tree to a leaf node results in a fully legal key name. The order of the trees is shown here.

[0496] a. Registry Subsection:

- [0497]** 1. "HKCR": HKEY_CLASSES_ROOT
- [0498]** 2. "HKCU": HKEY_CURRENT_USER
- [0499]** 3. "HKLM": HKEY_LOCAL_MACHINE
- [0500]** 4. "HKUS": HKEY_USERS
- [0501]** 5. "HKCC": HKEY_CURRENT_CONFIG

[0502] Tree Structure: (5 entries)

- [0503]** ExistFlag [1 byte]: Set to 1 if this tree exist, 0 otherwise.
- [0504]** Key or Value Structure entries [X bytes]: Serialization of the tree into variable number key or value structures described below.

[0505] Key Structure: (Variable Number of Entries)

- [0506]** KeyFlag [1 byte]: Set to 1 if this entry is a key or 0 if it's a value structure
- [0507]** NumberOfSubchild [4 bytes]: Number of subkeys and values in this key directory
- [0508]** KeyNameLength [4 bytes]: Byte size of the key name
- [0509]** KeyName [X bytes]: Null terminating key name

[0510] Value Structure: (Variable Number of Entries)

- [0511]** KeyFlag [1 byte]: Set to 1 if this entry is a key or 0 if it's a value structure
- [0512]** ValueType [4 byte]: Type of values from the Win32 API function RegQueryValueEx(): REG_SZ, REG_BINARY, REG_DWORD, REG_LINK, REG_NONE, etc . . .
- [0513]** ValueNameLength [4 bytes]: Byte size of the value name
- [0514]** ValueName [X bytes]: Null terminating value name
- [0515]** ValueDataLength [4 bytes]: Byte size of the value data
- [0516]** ValueData [X bytes]: Value of the Data

[0517] In addition to registry changes, an installation in a Windows system may involve changes to the ini files. The following structure is used to communicate the ini file changes needed to be done on the SAS client machine. The ini entries are appended to the end of the variable section after the five registry trees are enumerated.

[0518] b. INI Subsection

- [0519]** NumFiles [4 bytes]: Number of INI files modified.

[0520] File Structure: (Variable Number of Entries)

- [0521]** FileNameLength [4 bytes]: Byte length of the file name
- [0522]** FileName [X bytes]: Name of the INI file
- [0523]** NumSection [4 bytes]: Number of sections with the changes

[0524] Section Structure: (Variable Number of Entries)

- [0525]** SectionNameLength [4 bytes]: Byte length of the section name
- [0526]** SectionName [X bytes]: Section name of an INI file
- [0527]** NumValues [4 bytes]: Number of values in this section

[0528] Value Structure: (Variable Number of Entries)

- [0529]** ValueLength [4 bytes]: Byte length of the value data
- [0530]** ValueData [X bytes]: Content of the value data

[0531] 4. Prefetch Section

[0532] The prefetch section **3104** contains a list of file blocks. The Builder profiler determines the set of file blocks critical for the initial run of the application. This data includes the code to start and terminate the application. It includes the file blocks containing frequently used commands. For example, opening and saving of documents are frequently used commands and should be prefetched if possible. Another type of block to include in the prefetch section are the blocks associated with frequently accessed directories and file metadata in this directory. The prefetch section is divided into two subsections. One part contains the critical blocks that are used during startup of the streamed application. The second part consists of the blocks accessed for common user operations like opening and saving of document. The format of the data is described below:

[0533] a. Critical Block Subsection:

- [0534]** NumCriticalBlocks [4 bytes]: Number of critical blocks.

[0535] Block Structure: (Variable Number of Entries)

- [0536]** FileName [4 bytes]: File Number of the file containing the block to prefetch
- [0537]** BlockNumber [4 bytes]: Block Number of the file block to prefetch

[0538] b. Common Block Subsection:

- [0539]** NumCommonBlocks [4 bytes]: Number of critical blocks.

[0540] Block Structure: (Variable Number of Entries)

- [0541]** FileName [4 bytes]: File Number of the file containing the block to prefetch
- [0542]** BlockNumber [4 bytes]: Block Number of the file block to prefetch

[0543] 5. Profile Section

[0544] The profile section **3105** consists of a reference sequence of file blocks accessed by the application at runtime. Conceptually, the profile data is a two dimensional matrix. Each entry [row, column] of the matrix is the frequency, a block row is followed by a block column. In any realistic applications of fair size, this matrix is very large and sparse. The proper data structure must be selected to

store this sparse matrix efficiently in required storage space and minimize the overhead in accessing this data structure access.

[0545] The section is constructed from two basic structures: row and column structures. Each row structure is followed by N column structures specified in the Number-Columns field. Note that this is an optional section. But with appropriate profile data, the SAS client prefetcher performance can be increased.

[0546] Row Structure: (Variable Number of Entries)

[0547] FileNumber [4 bytes]: File Number of the row block

[0548] BlockNumber [4 bytes]: Block Number of the row block

[0549] NumberColumns [4 bytes]: number of blocks that follows this block. This field determines the number of column structures following this field.

[0550] Column Structure: (Variable Number of Entries)

[0551] FileNumber [4 bytes]: File Number of the column block

[0552] BlockNumber [4 bytes]: Block Number of the column block

[0553] Frequency [4 bytes]: frequency the row block is followed by column block

[0554] 6. Comment Section

[0555] The comment section 3106 is used by the Builder to describe this AppInstallBlock in more detail.

[0556] CommentLengthIsAnsi [1 byte]: 1 if string is ansi, 0 if Unicode format.

[0557] CommentLength [4 bytes]: Byte size of the comment string

[0558] Comment [X bytes]: Null terminating comment string

[0559] 7. Code Section

[0560] The code section 3107 consists of the application-specific initialization code needed to run on the SAS client to setup the client machine for this particular application. This section may be empty if the default initialization procedure in the SAS client is able to setup the client machine without requiring any application-specific instructions. On the Windows system, the code is a DLL file containing two exported function calls: Install(), Uninstall(). The SAS client loads the DLL and invokes the appropriate function calls.

[0561] CodeLength [4 bytes]: Byte size of the code

[0562] Code [X bytes]: Binary file containing the application-specific initialization code. On Windows, this is just a DLL file.

[0563] 8. LicenseAgreement Section

[0564] The Builder creates the license agreement section 3108. The SAS client displays the license agreement text to the end-user before the application is started for the first time. The end-user must agree to all licensing agreement set by the software vendor in order to use the application.

[0565] LicenseTextIsAnsi [1 byte]: 1 if ansi, 0 if Unicode format.

[0566] LicenseTextLength [4 bytes]: Byte size of the license text

[0567] LicenseAgreement [X bytes]: Null terminating license agreement string

Client Installation and Execution of Streamed Applications

[0568] Summary

[0569] This section describes the process of installing and uninstalling streamed application on the client machine. With respect to FIG. 32, the lifecycle of the Application Install Block is shown. The Application Stream Builder 3202 takes original application files 3201 and produces a corresponding Application Install Block and Stream Application Set 3203. These two files get installed onto the application servers 3206. On the right side of the drawing, it shows how either the administrator or the user can subscribe to the application from either the client computer 3208 or an administration computer 3207. Once the user logs on to the client computer 3208, the license and the AIB 3203 are acquired from the license 3205 and application servers 3206, respectively.

[0570] The following are features of a preferred embodiment of the invention:

[0571] 1. The streamed application installation process installs just the description of the application, not the total content of the application. After installing such description, the client system looks and feels similar to having installed the same app using a non-streamed method. This has the following benefits:

[0572] a. Takes a very small fraction of the time to install the application.

[0573] b. Takes a very small fraction of the disk space.

[0574] c. Client does not have to wait for the entire application to be downloaded. This is particularly important to users with slow network connections.

[0575] The application description is subsequently uninstalled without requiring deleting the total contents of the application. This has the benefit that it takes a very small fraction of the time to uninstall the application.

[0576] 2. Enhancing streamed application's performance by:

[0577] a. Copying small portions of application's code and data (pages) that are critical to performance.

[0578] b. Providing client with the initial profile data that can be used to perform pre-fetching.

[0579] This has the following benefits:

[0580] 1. User experiences smooth and predictable application launch.

[0581] 2. Scalability of Application servers increases by reducing the number of client connections.

[0582] 3. An administrator can arrange applications to be installed automatically on client computers. Administrator can also arrange the installation on various client computers simultaneously without being physically present on each client computer. This has the following benefits:

[0583] a. Users are not burdened with the process of installing streamed applications.

[0584] b. Reduced administration expense.

[0585] Overview of Components Relevant to the Install Process

[0586] Subscription Server 3204: allows users to create accounts & to rent.

[0587] License Server 3205: authenticates users & determines licensing rights to applications.

[0588] Application Server 3206: provides application bits to licensed users securely & efficiently.

[0589] Application Install Manager—a component installed on the streaming client that is responsible for installing and uninstalling streamed applications.

[0590] Application Install Block (AIB) 3203—a representation of what gets installed on the client machine when a streamed application is installed. It contains portions of the application that are responsible for registering the application with the client operating system and other data that enhances the execution of streamed application.

[0591] Application Stream Builder 3202—preprocesses apps & prepares files to be installed on Application Server and data, such as AIB, to be installed by Client Application Installer.

[0592] Stream Application Set 3203—a method of representing the total content of the application in a format that is optimal for streaming.

[0593] Client Streaming File System—integrates client exec with paging from a special file system backed by remote network-accessed server-based store

[0594] Application Install Block (AIB)

[0595] Installing and un-installing a stream application requires an understanding of what AIB is and how it gets manipulated by the various components in the overall streaming system. AIB is physically represented as a data file with various different sections. Its contents include:

[0596] Streamed application name and identification number.

[0597] Software License Agreement.

[0598] Registry spoof set.

[0599] File spoof set.

[0600] Small number of application pages—initial cache contents.

[0601] Application Profile Data.

[0602] AIB Lifecycle

[0603] The following describes the AIB lifecycle:

[0604] 1. Using the process described in the section above concerning converting apps for stream delivery and subsequent execution, an application install

block is created by the Application Stream Builder. Initially, there will be one AIB per application, however, as the application evolves via patches and service packs, new AIBs may need to be generated.

[0605] 2. Using a process described in the section above regarding server-side performance optimization, AIB will get hosted by the application servers.

[0606] 3. “Subscribing” the application by communicating with the subscription server. Subscribing to an application requires a valid account with the ASP. Either the user or an administrator acting on the user’s behalf can subscribe the application. In addition, the application can be subscribed to from any computer on the Internet, not just the client machine where the application will be eventually installed. This allows an administrator to subscribe applications for a group of users without worrying about individual client machines.

[0607] 4. The client machine acquires the license for the application from the license server. If the application was subscribed from the client machine itself, this step will happen automatically after subscribing to the application. If the subscription happened from a different machine, e.g., the administrator’s machine, this step will happen when the user logs on the client machine. As an acknowledgment of having a valid license, the license server gives the client an encrypted access token.

[0608] 5. Fetch the contents of AIB from the application server. This step is transparent and happens immediately after the preceding step. Since application server requires the client to possess a valid access token, it ensures that only subscribed and licensed users can install the streamed application.

[0609] 6. The Application Install Manager (AIM) performs the act of installing the application information, as specified by the AIB, on the client system.

[0610] Installing a Streamed Application

[0611] AIM downloads AIB from the application server and takes the necessary steps in installing the application description on the client system. It extracts pieces of information from AIB and sends messages to various other components (described later) to perform the installation. AIM also creates an Install-Log that can be used when un-installing the streamed application.

[0612] 1. Display a license agreement to the user and wait for the user to agree to it.

[0613] 2. Extract File Spoof Data and communicate that to the Client File Spoofer. The list of files being spoofed will be recorded in the Install-Log.

[0614] 3. Extract Registry Spoof Data and communicate that to the Client Registry Spoofer. The list of Registries being spoofed will be recorded in the Install-Log.

[0615] 4. Extract Initial Cache Content and communicate that to the Client Prefetch Unit.

[0616] 5. Extract Profile Data and communicate that to the Client Prefetch Unit.

[0617] 6. Save the Install-Log in persistent storage.

[0618] Un-Installing a Streamed Application

[0619] Un-installation process relies on the Install-Log to know what specific items to un-install. Following steps are performed when un-installing and application:

[0620] 1. Communicate with the Client Registry Spoofer to remove all registries being spoofed for the application being un-installed.

[0621] 2. Communicate with the Client File Spoofer to disable all files being spoofed for the application being un-installed.

[0622] 3. Communicate with the Client Prefetch Unit to remove all Profile Data for the application being un-installed.

[0623] 4. Communicate with the Client Cache Manager to remove all pages being cached for the application being un-installed.

[0624] 5. Delete the Install-Log.

[0625] Client File Spoofer

[0626] A file spoofer component is installed on the client machine and is responsible for redirecting file accesses from a local file system to the streaming file system. The spoofer operates on a file spoof database that is stored persistently on the client system; it contains a number of file maps with following format:

[0627] [Original path of a local file]←→[New path of a file on streaming drive]

[0628] Where “←→” indicates a bi-directional mapping between the two sides of the relationship shown.

[0629] When a streamed application is installed, the list of new files to spoof (found in AIB) is added to the file spoof database. Similarly, when a streamed application is un-installed, a list of files being spoofed for that application is removed from the file spoof database.

[0630] On clients running the Windows 2000 Operating System, the file spoofer is a kernel-mode driver and the spoof database is stored in the registry.

[0631] Client Registry Spoofer

[0632] The Registry Spoofer intercepts all registry calls being made on the client system and re-directs calls manipulating certain registries to an alternate path. Effectively, it is mapping the original registry to an alternate registry transparently. Similar to the client file spoofer, the registry spoofer operates on a registry spoof database consisting entries old/new registry paths. The database must be stored in persistent storage.

[0633] When a streamed application is installed, the list of new registries to spoof (found in AIB) is added to the registry spoof database. Upon un-installation of a streamed application, its list of spoofed registries is removed from the registry spoof database.

[0634] On clients running the Windows 2000 Operating System, the registry spoofer is a kernel-mode driver and the registry spoof database is stored in the registry.

[0635] Client Prefetch Unit

[0636] In a streaming system, it is often a problem that the initial invocation of the application takes a lot of time because the necessary application pages are not present on the client system when needed. A key aspect of the client

install is that by using a client prefetch unit, a system in accordance with the present invention significantly reduces the performance hit associated with fetching. The Client Prefetch Unit performs two main tasks:

[0637] 1. Populate Initial Cache Content,

[0638] 2. Prefetch Application Pages.

[0639] Initial Cache Content

[0640] The Application Stream Builder determines the set of pages critical for the initial invocation and packages them as part of the AIB. These pages, also known as initial cache content, include:

[0641] Pages required to start and stop the application,

[0642] Contents of frequently accessed directories,

[0643] Application pages performing some of the most common operations within application. For example, if Microsoft Word is being streamed, these operations include: opening & saving document files & running a spell checker.

[0644] When the Stream Application is installed on the client, these pages are put into the client cache; later, when the streamed application is invoked, these pages will be present locally and network latency is avoided.

[0645] In preparing the Prefetch data, it is critical to manage the trade off of how many pages to put into AIB and what potential benefits it brings to the initial application launch. The more pages that are put into prefetch data, the smoother the initial application launch will be; however, since the AIB will get bigger (as a result of packing more pages in it), users will have to wait longer when installing the streamed application. In a preferred embodiment of the invention, the size of the AIB is limited to approximately 250 KB.

[0646] In an alternative embodiment of the invention the AIB initially includes only the page/file numbers and not the pages themselves. The client then goes through the page/file numbers and does paging requests to fetch the indicated pages from the server.

[0647] Prefetch Application Pages

[0648] When the streaming application executes, it will generate paging requests for pages that are not present in the client cache. The client cache manager must contact the application server and request the page in question. The invention takes advantage of this opportunity to also request additional pages that the application may need in the future. This not only reduces the number of connections to the application server, and overhead related to that, but also hides the latency of cache misses.

[0649] The application installation process plays a role in the pre-fetching by communicating the profile data present in the AIB to the Client Prefetch Unit when the application is installed. Upon un-installation, profile data for the particular application will be removed.

Caching of Streamed Application Pages Within the Network

[0650] Summary

[0651] This section describes how collaborative caching is employed to substantially improve the performance of a client server system in accordance with the other aspects of the present invention. Specifically, particular caching configurations and an intelligent way to combine these caching configurations are detailed.

[0652] Collaborative Caching Features:

[0653] Using another client's cache to get required pages/packets (Peer Caching)

[0654] Using an intermediate proxy or node to get required pages/packets (Proxy Caching)

[0655] Using a broadcasting or multicasting mechanism to make a request (Multicast)

[0656] Using a packet based protocol to send requested pages/packets rather than a stream based one. (Packet Protocol)

[0657] Using concurrency to request a page through all three means (Peer Caching or Proxy Caching or the actual server) to improve performance (Concurrent Requesting).

[0658] Using heuristical algorithms to use all three ways to get the required pages (Smart Requesting).

[0659] These features have the following advantages:

[0660] These ideas potentially improve the performance of the client, i.e., they reduce the time a client takes to download a page (Client Performance).

[0661] These ideas improve the scalability of the server because the server gets fewer requests, i.e., requests which are fulfilled by a peer or a proxy don't get sent to the server. (Server Scalability)

[0662] These allow a local caching mechanism without needing any kind of modification of local proxy nodes or routers or even the servers. The peer-to-peer caching is achieved solely through the co-operation of two clients. (Client Only Implementation)

[0663] These ideas allow a client to potentially operate "offline" i.e., when it is not getting any responses from the server (Offline Client Operation).

[0664] These ideas allow the existing network bandwidth to be used more effectively and potentially reduce the dependency of applications on higher bandwidth (Optimal Use of Bandwidth).

[0665] These ideas when used in an appropriate configuration allow each client to require a smaller local cache but without substantially sacrificing the performance that you get by local caching. An example is when each client "specializes" in caching pages of a certain kind, e.g., a certain application. (Smaller Local Cache).

[0666] These ideas involve new interrelationships—peer-to-peer communication for cache accesses; or new configurations—collaborative caching. The reason this is called collaborative is because a group of clients can collaborate in caching pages that each of them needs.

[0667] Aspects of Collaborative Caching

[0668] 1. Peer Caching: A client X getting its pages from another client Y's local cache rather than its (X's) own or from the server seems to be a new idea. Major advantages: client performance, server scalability, client only implementation, offline client operation, optimal use of bandwidth, smaller local cache.

[0669] 2. Proxy Caching: The client getting its pages from an intermediate proxy which either serves the page from the local cache or from another intermediate proxy or the remote server (if none of the intermediate proxies has the page) is unique, at a minimum, for the pages of a streamed application. Major advantages: client performance, server scalability, offline client operation (to some extent), optimal use of bandwidth, smaller local cache.

[0670] 3. Multicast: Using multicasting (or selective broadcasting) considerably reduces peer-to-peer communication. For every cache request there is only one packet on the network and for every cache response there is potentially only one packet on the network in some configurations. This definitely helps reduce network congestion. Major advantages: client performance, server scalability, client only implementation, offline client operation, optimal use of bandwidth

[0671] 4. Packet Protocol: Because only datagram packets are used to request or respond to cache pages this saves the overhead of opening stream-based connections such as a TCP connection or an HTTP connection. Major advantages: client performance, client only implementation, offline client operation, and optimal use of bandwidth.

[0672] 5. Concurrent Requesting: If concurrent or intelligently staggered requests through all three means are issued to request a single page, the client will be able to receive the page through the fastest means possible for that particular situation. Major advantages: client performance, server scalability, offline client operation, and optimal use of bandwidth

[0673] 6. Smart Requesting: An adaptive or "smart" algorithm can be used to further enhance the overall performance of the client-server system. In this algorithm, the client uses the data of how past requests were processed to "tune" new requests. For example, if the client's past requests were predominantly served by another client, i.e., Peer Caching worked, then for new page requests the client would first try to use Peer Caching, and wait some time before resorting to either Proxy Caching or direct server request. This wait time can again be calculated in an adaptive fashion. Major advantages: client performance, server scalability, client only implementation, offline client operation, and optimal use of bandwidth.

[0674] The concepts illustrated herein can be applied to many different problem areas. In all client-server implementations where a server is serving requests for static data, e.g., code pages of a streamed application or static HTML pages

from a Website, the approaches taught herein can be applied to improve the overall client-server performance. Even if some of the protocols or configurations described in this document are not supported by the underlying network, it does not preclude the application of other ideas described herein that do not depend on such features. For example, if multicast (or selective broadcast) is not supported, ideas such as Concurrent Requesting or Smart Requesting can still be used with respect to multiple servers instead of the combination of a server, peer, and proxy. Also the use of words like Multicast does not restrict the application of these ideas to multicast based protocols. These ideas can be used in all those cases where a multicast like mechanism, i.e., selective broadcasting is available. Also note that the description of these ideas in the context of LAN or intranet environment does not restrict their application to such environments. The ideas described here are applicable to any environment where peers and proxies, because of their network proximity, offer significant performance advantages by using Peer Caching or Proxy Caching over a simple client-server network communication. In that respect, the term LAN or local area network should be understood to mean more generally as a collection of nodes that can communicate with each other faster than with a node outside of that collection. No geographical or physical locality is implied in the use of the term local area network or LAN.

[0675] Peer Caching

[0676] Referring to **FIG. 33**, how multiple peers collaborate in caching pages that are required by some or all of them is shown.

[0677] The main elements shown are:

[0678] Client **13301** through Client **63306** in an Ethernet LAN **3310**.

[0679] Router **1** and the local proxy serving as the Internet gateway **3307**. Note that it does not matter whether Router **1** and the proxy are one computer or two different ones.

[0680] Other routers from router **2** through router **N 3308** that are needed to connect the LAN **3310** to the Internet **3311**.

[0681] A remote server **3309** (that is reachable only by going over the Internet **3311**) that is serving the pages that the above mentioned clients need.

[0682] A cloud that symbolizes the complexity of the Internet **3311** and potentially long paths taken by packets.

[0683] Client **23302** needs a page that it does not find in its local cache. It then decides to use the mechanism of Peer Caching before attempting to get the page from the local proxy (or the actual server through the proxy). The actual sequence of events is as follows:

[0684] 1. Client **23302** sends a request for the page it needs. This request is sent as a multicast packet to a predetermined multicast address and port combination. Lets call this multicast address and port combination as M.

[0685] 2. The multicast packet is received by all the clients that have joined the group M. In this case all six clients have joined the group M.

[0686] 3. Client **53305** receives the request and it records the sender's, i.e., Client **2's 3302**, address and port combination. Let's assume this address and port combination is A. Client **53305** processes the request and looks up the requested page in its own cache. It finds the page.

[0687] 4. Client **53305** sends the page to address A (which belongs to Client **23302**) as a packet.

[0688] 5. Client **23302** receives the page it needs and hence does not need to request the server for the page.

[0689] Proxy Caching

[0690] With respect to **FIG. 43**, a transparent proxy and how clients use it to get pages is shown. Again the elements here are the same as in the previous figure:

[0691] Client **13401** through Client **63406** in an Ethernet LAN **3410**.

[0692] Router **1** and the local proxy serving as the Internet gateway **3407**. Note that it does not matter whether Router **1** and the proxy are one computer or two different ones.

[0693] Other routers from router **2** through router **N 3408** that are needed to connect the LAN **3410** to the Internet **3411**.

[0694] A remote server **3409** (that is reachable only by going over the Internet **3411**) that is serving the pages that the above mentioned clients need.

[0695] A cloud that symbolizes the complexity of the Internet **3411** and potentially long paths taken by packets.

[0696] Assume Peer Caching is either not enabled or did not work for this case. When Client **23402** needs a page, it makes a request to the proxy **3407**. The proxy **3407** finds the page in its local cache and returns it to Client **23402**. Because of this, the request did not go to the remote server **3409** over the Internet **3411**.

[0697] Multicast and Packet Protocol Within a LAN

[0698] Referring to **FIG. 35**, the role played by multicast and unicast packets in Peer Caching is shown. The example of the drawing "Peer Caching" is used to explain multicast. Here Client **23502** has the IP address 10.0.0.2 and it opens port **3002** for sending and receiving packets. When Client **23502** needs a page and wants to use Peer Caching to get it, it forms a request and sends it to the multicast address and port 239.0.0.1:2001. All the other clients in the LAN **3508** that support Peer Caching have already joined the group 239.0.0.1:2001 so they all receive this packet.

[0699] Client **53505** receives this packet and it records the sender address (10.0.0.2:3002 in this case). It looks up the requested page and finds it in its local cache. It sends the page as a response packet to the address 10.0.0.2:3002.

[0700] Client **23502** receives this response packet since it was waiting at this port after sending the original multicast request. After ensuring the validity of the response, it retrieves the page it needs.

[0701] Note that more than one client can respond to the original multicast request. However Client 23502 can discard all the later responses, since it has already received the page it needed.

[0702] Concurrent Requesting—Proxy First

[0703] With respect to FIG. 36, one particular case of how Concurrent Requesting is used is shown. This is a timeline of events that take place in the client. When a client first needs a page, it does not know whether it is going to get any responses through Peer Caching or not. Hence it issues a request to the proxy (or the server through the proxy) as soon as it needs the page. Then it issues a request using the Peer Caching mechanism. If there is indeed a peer that can return the page requested, the peer presumably could return the page faster than the proxy or the server. If this happens, the client may decide to use Peer Caching mechanism before attempting to get the page from the proxy or the server. The timeline essentially describes the following sequence of events:

[0704] 1. At time $t=0$, a page p is needed by the client 3601.

[0705] 2. The client looks up its local cache, and it doesn't find page p .

[0706] 3. At time $t=T1$, it decides to send a request to the proxy to get the page 3602.

[0707] 4. After a delay of amount D_p 3603, at time $t=T2$ it also sends a request for the page p through the mechanism of Peer Caching 3604. Note that D_p 3603 can be zero, in which case $T1=T2$.

[0708] 5. At time $t=T3$, a response is received from another peer that contains the page p that this client needs 3606. Thus the response time of the Peer Caching mechanism is $R_p=T3-T2$ 3605.

[0709] 6. At time $t=T4$, a response from the proxy/server is received that contains the page p 3608. Hence the response time of the proxy/server is $R_s=T4-T1$ 3607.

[0710] Note that since, $R_p < R_s$, the client will increase the weighting for Peer Caching in all of its future queries. That means it will decrease D_p , and if D_p is already zero, it will increase D_s (the delay before requesting proxy/server). On the other hand, if $R_p > R_s$ or if R_p were infinity, it will increase its weighting for proxy/server requesting. This is part of Smart Requesting that is explained elsewhere in this document.

[0711] Concurrent Requesting—Peer Caching First

[0712] Referring to FIG. 37, in contrast to the previous figure, the client has decided to use Peer Caching before requesting the proxy. So the sequence of events is as follows:

[0713] 1. At time $t=0$, a page p is needed by the client 3701.

[0714] 2. The client looks up its local cache, and it doesn't find page p .

[0715] 3. At time $t=T5$, it decides to send a request for the page p through the mechanism of Peer Caching 3702.

[0716] 4. After a delay of amount D_s 3703, at time $t=T6$ it also sends a request for the page p to the proxy/server. Note that D_s can be zero, in which case $T5=T6$.

[0717] 5. At time $t=T7$, a response is received from another peer that contains the page p that this client needs 3706. Thus the response time of the Peer Caching mechanism is $R_p=T7-T5$ 3705.

[0718] 6. At time $t=T8$, a response from the proxy/server is received that contains the page p 3708. Hence the response time of the proxy/server is $R_s=T8-T6$ 3707.

[0719] As described in the previous drawing, the client increases the weighting of Peer Caching even more because it got a response through Peer Caching long before it got a response from the proxy/server. As a result of the increases weighting the delay D_s is increased even more.

[0720] Concurrent Requesting—Peer Caching Only

[0721] With respect to FIG. 38, in contrast with FIG. 37, the client has increased D_s 3805 (the delay before requesting a proxy/server) so much, that if a page is received before the expiry of the delay D_s 3805, the client does not even make a request to the proxy/server. The shaded area 3806 shows the events that do not take place because of this.

[0722] Client-Server System with Peer and Proxy Caching

[0723] Referring to FIG. 39, a system level drawing that gives a system context for all the other figures and discussion in this document is shown. This drawing illustrates all three ways in which a client gets its page requests fulfilled. Note that:

[0724] Client 23902 gets its page request fulfilled through Peer Caching, i.e., multicast request.

[0725] Client 13901 gets its page request fulfilled through Proxy Caching, i.e., the proxy 3907 finds the page in its cache and returns it.

[0726] Client 33903 has to go to the server 3909 over the Internet 3908 to get its page request fulfilled.

[0727] Collaborative Caching Details

[0728] In a typical client-server model, caching could be used to improve the performance of clients and scalability of servers. This caching could be:

[0729] Local to the client where the client itself locally stores the pages it had received from the server in the past. Then the client would not need to request the proxy/server for any page that resides in the local cache as long as the locally cached page is "valid" from the server point of view.

[0730] On a proxy node that can be any node along the path taken by a packet that goes from the client to the server. The closer this proxy node is to the client the more improvement in the performance you get.

[0731] On a peer node, that is on another client. In this case, the two clients (the requesting client as well as the serving client) are on the same LAN or intranet, so that the travel time of a packet between

the two nodes is considerably smaller as compared to the travel time of the packet from one of the clients to the server.

[0732] As far as caching is concerned, this section details the new ideas of Peer Caching and Proxy Caching. In addition, it also details the new ideas of Concurrent Requesting and Smart Requesting. The preferred approaches for implementing these ideas are also described here and these are Multicast and Packet Protocol.

[0733] The idea of Peer Caching is nothing but a client X taking advantage of the fact that a peer, e.g., say another client Y, on its LAN had, in the past, requested a page that X is going to request from its server. If the peer Y has that page cached locally on its machine, then X could theoretically get it much faster from Y than getting it from the server itself. If an efficient mechanism is provided for the two clients X and Y to collaborate on this kind of cache access, then that will offer many advantages such as: Client Performance, Server Scalability, Client Only Implementation, Offline Client Operation, Optimal Use of Bandwidth, Smaller Local Cache. Note that two clients were considered only as an example, the idea of Peer Caching is applicable to any number of peers on a LAN.

[0734] The idea of Multicast is to use the multicast protocol in the client making a Peer Caching request. Multicast can be briefly described as “selective broadcasting”—similar to radio. A radio transmitter transmits “information” on a chosen frequency, and any receiver (reachable by the transmitter, of course) can receive that information by tuning to that frequency. In the realm of multicast, the equivalent of a radio frequency is a multicast or class D IP address and port. Any node on the net can send datagram packets to a multicast IP address+port. Another node on the net can “join” that IP address+port (which is analogous to tuning to a radio frequency), and receive those packets. That node can also “leave” the IP address+port and thereby stop receiving multicast packets on that IP address+port.

[0735] Note that multicast is based on IP (Internet Protocol) and is vendor neutral. Also, it is typically available on the Ethernet LAN and, if routers supported it, it can also go beyond the LAN. If all the routers involved in a node’s connection to the Internet backbone supported multicast routing, multicast packets theoretically could go to the whole Internet except the parts of the Internet that do not support multicast routing.

[0736] The use of multicast allows a client to not have to maintain a directory of peers that can serve its page requests. Also because of multicast there is only one packet per page request. Any peer that receives the request could potentially serve that request, so by using a multicast based request there are multiple potential servers created for a page request but only one physical packet on the network. This contributes substantially in reducing network bandwidth, but at the same time increasing peer accessibility to all the peers. When implemented properly, the packet traffic due to Peer Caching will be proportional to the number of clients on the network participating in Peer Caching.

[0737] An idea related to Multicast is Packet Protocol. Note that Multicast itself is a packet-based protocol as opposed to connection based. The idea of Peer Caching here is described using Multicast and Packet Protocol. The Peer

Caching request is sent as a multicast request and the response from a peer to such a request is also sent as a packet (not necessarily a multicast packet). Sending packets is much faster than sending data through a connection-based protocol such as TCP/IP, although using packet-based protocol is not as reliable as using connection-based one. The lack of reliability in Packet Protocol is acceptable since Peer Caching is used only to improve overall performance of the Client-Server system rather than as a primary mechanism for a client to get its pages. The underlying assumption made here is that a client could always get its pages from the server, if Peer Caching or Proxy Caching does not work for any reason.

[0738] The ideas of Concurrent Requesting and Smart Requesting describe how Peer Caching, Proxy Caching and client-server access could be combined in an intelligent fashion to achieve optimal performance of the whole Client-Server system. As part of Concurrent Requesting, a client is always prepared to make concurrent requests to get the page it needs in the fastest way possible. Concurrent Requesting would require the use of objects such as threads or processes that would allow one to programmatically implement Concurrent Programming. This document assumes the use of threads to describe a possible and preferred way to implement Concurrent Requesting.

[0739] The idea of Smart Requesting includes using an adaptive algorithm to intelligently stagger or schedule requests so that a client, even while using Concurrent Requesting, would not unnecessarily attempt to get a page through more than one means. An example of this is when a client has consistently gotten its page requests fulfilled through Peer Caching in the past. It would come to depend on Peer Caching for future page requests more than the other possible means. On the other hand, if Peer Caching has not worked for that client for some time, it would schedule a proxy request before a Peer Caching request. Smart Requesting involves dynamically calculating the delays D_p and D_s based on how well Peer Caching and Proxy Caching has worked for the client. Please see **FIGS. 36 through 38**.

[0740] The following is an algorithmic description using pseudo-code of an illustrative embodiment.

[0741] startOurClient is a function that is invoked initially when the client is started.

```
void startOurClient() {
    Initialize the global variable delay to appropriate value based on a
    predefined policy. When delay is positive, it signifies the amount of
    time to wait after Proxy Caching before Peer Caching is attempted;
    and when delay is negative it signifies the amount of time to wait
    after Peer Caching before Proxy Caching is attempted. As an
    example:
    delay = 50;
    Start a thread for peer responses (i.e., Peer Caching server) with
    thread function as peerServer;
}
getPage function
```

[0742] The function getPage is called by the client’s application to get a page. This function looks up the local cache and if the page is not found, attempts to get the page from a peer or proxy/server using the ideas of Concurrent Requesting and Smart Requesting.

```

void getPage(PageIdType pageId) {
    if pageId present in the local cache then {
        retrieve it and return it to the caller;
    }
    if (delay > 0) {
        myDelay = delay;
        Call requestProxy(pageId);
    }
    else {
        myDelay = -delay;
        Call requestPeer(pageId);
    }
    Wait for gotPage event to be signaled for a maximum of myDelay
    milliseconds;
    If the page was obtained as indicated by gotPage being signaled {
        Modify delay appropriately i.e., if the page was obtained through
        Proxy Caching increment delay else decrement it;
        Return the page;
    }
    if (delay > 0) {
        Call requestPeer(pageId);
    }
    else {
        Call requestProxy(pageId);
    }
    Wait for the page to come through either methods;
    Depending on how the page came (through Proxy Caching or Peer
    Caching) increment or decrement delay;
    Return the page;
}
requestProxy function

```

[0743] The function requestProxy sends a page request to the proxy and starts a thread that waits for the page response (or times out). The function proxyResponse is the thread function that waits for the response based on the arguments passed to it.

```

void requestProxy(pageId) {
    Send a page request for pageId to a predefined proxy/server as per the
    proxy/server protocol;
    Start a thread with the thread function proxyResponse that waits
    for the response to the request - the function proxyResponse is
    passed arguments: the socket X where it should wait and pageId.
}
void proxyResponse(socket X, pageId) {
    Wait at the socket X for a response with a timeout of time TY;
    If a response was received at socket X {
        Uncompress the packet if necessary;
        Validate the packet and ensure that this is a
        valid response to the request and has the page requested (i.e.,
        match the pageId);
    }
    else {
        // this is time out: didn't receive any
        // response in time TY
        Set appropriate indicator to indicate time-out;
    }
    Signal an event to signify completion of this thread;
}
requestPeer and peerResponse functions

```

[0744] The function requestPeer is similar to requestProxy except that it sends a page request to peers and starts a thread that waits for the page response (or times out). The function peerResponse is the thread function that waits for the response based on the arguments passed to it.

```

Void requestPeer(pageId) {
    Create a UDP socket X bound to port 3002;
    Compose a packet that consists of:
        • a code indicating that this is a request for a page
        • Some kind of an identifier that uniquely identifies the page
          wanted such as the URL
        • other info such as security information or access validators
    Send this packet as a multicast packet to 239.0.0.1:2001 through
    the socket X created above;
    Create a thread with the thread function peerResponse and pass
    socket X and pageId as arguments to it;
}
Void peerResponse(socket X, pageId) {
    Wait at the socket X for a response with a timeout of time TX;
    If a packet was received at socket X {
        Uncompress the packet if necessary;
        Validate the packet and ensure that this is a
        valid response to the request and has the page requested (i.e.,
        match the pageId);
    }
    else {
        // this is time out: didn't receive any
        // response in time TX
        Set appropriate indicator to indicate time-out;
    }
    Signal an event to signify completion of this thread;
}
peerServer function

```

[0745] The function peerServer described below serves page requests received through Peer Caching as multicast packets. The function below describes how this thread would work:

```

void peerServer() {
    Create a multicast socket M bound to port 2001;
    Have M "join" the IP address 239.0.0.1;
    while (not asked to terminate) {
        Wait at M for a multicast packet;
        If a packet is received then {
            Store the source IP addr in S along with the source port number in B;
            Validate the packet that it is a valid request for a page that can be
            served (with valid security credentials);
            Look up the page id in the local client cache;
            If the page is found {
                Compose a packet that contains the pageId of the
                page as well as the page contents to send;
                Optionally compress the packet before sending;
                Send this packet to the IP address S at port B;
            }
        }
    }
}

```

Piracy Prevention for Streamed Applications

[0746] Summary

[0747] The details presented in this section describe new techniques of the invention that have been developed to combat software piracy of applications provided over networks, in situations where an ASP's clients' machines execute the software applications locally. The remote ASP server must make all the files that constitute an application available to any subscribed user, because it cannot predict with complete accuracy which files are needed at what point in time. Nor is there a reliable and secure method by which the server can be aware of certain information local to the

client computer that could be useful at stopping piracy. The process may be a rogue process intent on pirating the data, or it may be a secure process run from an executable provided by the ASP.

[0748] Aspects of the Invention

[0749] 1. Client-side fine-grained filtering of file accesses directed at remotely served files, for anti-piracy purposes. Traditional network filesystems permit or deny file access at the server side, not the client side. Here, the server provides blanket access to a given user to all the files that the user may need during the execution of an application, and makes more intelligent decisions about which accesses to permit or deny.

[0750] 2. Filtering of file accesses based on where the code for the process that originated the request is stored. Traditional file systems permit or deny file access usually based on the credentials of a user account or process token, not on where the code for the process resides. Here, a filesystem may want to take into account whether the code for the originating process resides in secure remote location or an insecure local location.

[0751] 3. Identification of crucial portions of served files and filtering file accesses depending on the portion targeted. The smallest level of granularity that traditional file systems can operate on is at the level of files, not at the level of the sections contained in the files (for example, whether or not data from a code section or a resource section is requested).

[0752] 4. Filtering of file accesses based on the surmised purpose of the file access, as determined by examining the program stack or flags associated with the request. Traditional file systems do not attempt to determine why a file access was issued before permitting or denying the access, e.g., whether the purpose is to copy the data or page in the data as code for execution.

[0753] 5. Filtering of file accesses based on the surmised purpose of the file access, as determined by examining a history of previous file accesses by the same process. Traditional file systems do not keep around histories of which blocks a given requestor had previously requested from a file. This history can be useful in seeing if the requests match a pattern that suggests a file copy is occurring as opposed to code execution.

[0754] Benefits of the Anti-Piracy Features of the Present Invention

[0755] This is an enabler technology that allows a programmer to build security into a certain type of application delivery system that would otherwise not be possible. Several companies are developing technology that allows an application to be served remotely, but executed locally. Current filesystems provide no way to protect the files that make up this application from being copied and thus pirated. The above techniques are tools that enable a filesystem to allow just those requests that will let the application run normally and block those that are the result of attempts to

pirate the application's code or data. This provides a competitive advantage to those software providers who use this technology, because piracy results in lost revenue and, by preventing this, piracy they can prevent this loss.

[0756] The techniques described herein were developed for the purpose of preventing the piracy of computer software programs that are served from a remote server, but executed on a local client. However, they can be used by any computer software security solution that would benefit from the ability to filter file accesses with more flexibility than currently provided by most filesystems.

[0757] When a filesystem receives a request, it must decide whether or not the request should be granted or denied for security reasons. If the target file is local, the filesystem makes the decision by itself, and if the target file is remote, it must ask the server to handle the request for it. The above techniques are ways in which the filesystem can gather more information about the request than it would ordinarily have. It can then use that information to improve the quality of its decisions. Traditional approaches, such as granting a currently logged-in user access to certain files and directories that are marked with his credentials, are not flexible enough for many situations. As for remote files, the server has only a limited amount of information about the client machine. The filesystem at the client side can make grant/deny decisions based on local information before ever asking the server, in order to provide a more intelligent layer of security.

[0758] For example, it may be desirable to allow the user to execute these files, but not copy them. It may be desirable to grant access to only certain processes run by the user, but not others, because it is judged that some processes to be more secure or well-behaved than others. And it may be desirable to allow the user to access only certain sections of these files and from only certain processes for certain periods of time. The above techniques are tools that are added to a filesystem to give it these abilities.

[0759] Overview of the Anti-Piracy Features of the Present Invention

[0760] With respect to **FIG. 40**, preventing piracy of remotely served, locally executed applications is shown. This figure illustrates the problem of software piracy in an application delivery system, and how it can be stopped using the techniques described in this section. The client computer **4001** is connected to a server **4009** run by an ASP **4007**. The server **4009** provides access to application files **4008**, out of which the application executable is run by the client **4001** locally on his machine. (This is Process **#14002**). However, the user can attempt to access and copy the application files to local storage **4009** on his machine, and thus be able to run them without authorization or give them to another person. But since all requests directed at the remote files **4006** must first pass through the local network filesystem, this filesystem can be enhanced **4005** to deny all such requests that it thinks are the result of an attempt at piracy.

[0761] Referring to **FIG. 41**, the filtering of accesses to remote application files, illustrating New Technique **#1**, as described above is shown. (Note: the client computer represented here and in all subsequent figures is part of the same client-server system as in **FIG. 40**, but the server/ASP diagram has been omitted to save space.) A user **4102** who

has been granted access to remotely served files **4106** representing an application is attempting to access these files. The local enhanced network filesystem **4103** is able to deny access to certain files **4105** and grant access to others **4104**, for the purpose of protecting critical parts of the application from piracy.

[0762] With respect to **FIG. 42**, the filtering of accesses to remote files based on process code location, illustrating New Technique #2, as described above, is shown. Here there are two processes on the client computer. Process #**14202** has been run from an executable file **4206** that is part of a remotely served application **4207**, and process #**24203** has been run from a local executable file **4204**. They are both attempting to access a remote data file **4206** that is part of the served application **4207**. The local enhanced network filesystem **4205** is denying Process #**24203** access and granting Process #**14202** access because Process #2's **4203** executable is stored locally, and thus is not secure, while Process #1's **4202** executable is provided by the server **4207**, and thus can be vouched for.

[0763] Referring to **FIG. 43**, the filtering of accesses to remote files based on targeted file section, illustrating New Technique #3, as described above, is shown. Here there is a single local process **4302** that is attempting to read from a remotely served executable file **4307**. The enhanced network filesystem **4304** is denying an attempt to read from the code section **4306** of the file **4307** while granting an attempt to read from a non-code section **4305** of the file **4307**. This is useful when access to some part of the file must be allowed, but access to other parts should be denied to prevent piracy of the entire file.

[0764] With respect to **FIG. 44**, the filtering of accesses to remote files based on surmised purpose, illustrating New Technique #4 as described above, is shown. Here, two attempts to read from the code section **4407** of a remote executable file **4408** are being made from a process **4402** that was run from this file **4408**. However, one request is denied because it originated **4406** from the process's code **4403** itself, while another is approved because it originated from code in the Virtual Memory Subsystem **4404**. This prevents even a rogue remote process from attempting to pirate its own code, while allowing legitimate requests for the code to be completed.

[0765] Referring to **FIG. 45**, the filtering of accesses to remote files based on past access history, illustrating New Technique #5 as described above, is shown. Here, two processes **4502**, **4503** run from a local executable **4504** are attempting to access a remote file **4508**. The enhanced network filesystem **4507** keeps around a history of previous file accesses by these processes **4505**, **4506**, which it consults to make decisions about permitting/denying further accesses. Process #1's **4502** access attempt is granted, while Process #2's **4503** is denied, because the filesystem **4507** detected a suspicious pattern in Process #2's **4503** previous access history **4506**.

[0766] Anti-Piracy Details of the Invention

[0767] Five anti-piracy embodiments are disclosed below that can be used by an ASP-installed network filesystem to combat piracy of remotely served applications. The ASP installs a software component on the client that is able to take advantage of local knowledge, e.g., which process on

the client originated a request for data, and permit or deny requests for remote files before sending the requests to the server. That is, a network filesystem is installed on the local user's computer that manages access to these remote files. All input/output requests to these files must pass through this filesystem, and if the filesystem determines that a given request is suspicious in some way, it has the freedom to deny it.

[0768] Anti-Piracy Embodiment #1

[0769] Client-side fine-grained filtering of file accesses directed at remotely served files, for anti-piracy purposes.

[0770] Referring again to **FIG. 41**, the approach of the first anti-piracy embodiment is that a software component **4102** executing locally on a client computer **4101** has available to it much more information about the state of this computer than does a server providing access to remote files. Thus, the server can filter access only on a much coarser level than can this client component. An ASP can take advantage of this by installing a network filesystem **4103** on the client computer that is designated to handle and forward all requests directed at files located on a given remote server. This filesystem **4103** examines each request, and either grants or denies it depending on whether the request is justifiable from a security perspective. It can use information such as the nature of the originating process, the history of previous access by the process, the section of the targeted file being requested, and so on, in order to make its decision.

[0771] The best way known of implementing this approach is to write a network redirector filesystem component **4103** for the operating system that the ASP's clients' machines will be running. This component will be installed, and will make visible to the system a path that represents the server on which the ASP's application files are stored. The local computer can now begin accessing these files, and the filesystem **4103** will be asked to handle requests for these files. On most operating systems, the filesystem **4103** will register dispatch routines to the system that handle common file operations such as open, read, write and close. When a local process **4102** makes a request of an ASP-served file, the OS calls one of these dispatch routines with the request. In the dispatch routine, the filesystem **4103** examines the request and decides whether to deny it or grant it. If granted, it will forward the request to the remote server and send back the response to the operating system.

[0772] Anti-Piracy Embodiment #2

[0773] Filtering of file accesses based on where the code for the process that originated the request is stored.

[0774] Referring again to **FIG. 42**, when a filesystem **4205** receives a request for access to a given file, the request always originates from a given process on the computer. By determining where the executable file that the process was run from is located, the network filesystem **4205** can make a more informed decision about the security risk associated with granting the request. For example, if the executable file **4204** is located on the local computer **4202**, then it may contain any code whatsoever, code that may attempt to copy and store the contents of any remote files it can gain access to. The filesystem **4205** can reject requests from these processes as being too risky. However, if the executable file **4206** is being served by the ASP's remote server **4207**, then the process can assume to be well-behaved, since it is under

the control of the ASP. The filesystem **4205** can grant accesses that come from these processes **4202** in confidence that the security risks are minimal.

[0775] The best way known of implementing this approach is to modify a network filesystem **4205** to determine the identity of the process that originated a relevant open, read, or write request for a remote file. On some OSes a unique process ID is embedded in the request, and on others, a system call can be made to get this ID. Then, this ID must be used to look up the pathname of the executable file from which the process was run. To do this, upon initialization the filesystem **4205** must have registered a callback that is invoked whenever a new process is created. When this callback is invoked, the pathname to the process executable and the new process ID are provided as arguments, data which the filesystem **4205** then stores in a data structure. This data structure is consulted while servicing a file request, in order to match the process ID that originated the request with the process's executable. Then the root of the pathname of that executable is extracted. The root uniquely identifies the storage device or remote server that provides the file. If the root specifies an ASP server that is known to be secure, as opposed to a local storage device that is insecure, then the request can be safely granted.

[0776] Anti-Piracy Embodiment #3

[0777] Identification of crucial portions of served files and filtering file access depending on the portion targeted.

[0778] Referring again to **FIG. 43**, a served application usually consists of many files. In order to steal the application, a pirate would have to copy at least those files that store the code for the application's primary executable, and perhaps other files as well. This leads to the conclusion that some files are more important than others, and that some portions of some files are most important of all. Ordinarily, the best solution would be to deny access to the primary executable file and its associated executables in its entirety, but this is not usually possible. In order to initially run the application, the filesystem **4304** must grant unrestricted access to some portions of the primary executable. In order to prevent piracy, the filesystem **4304** can grant access selectively to just those portions that are needed. Additionally, the running application **4302** itself does not usually need to read its own code section, but does need to read other sections for purposes such as resource loading. Therefore, additional security can be introduced by denying access to the code sections **4306** of ASP-served executables **4307** even to those executables themselves.

[0779] To implement this, modify a network filesystem's **4304** open file dispatch routine to detect when a remotely served executable **4307** is being opened. When this is detected, the executable file **4307** is examined to determine the offset and length of its code section **4306**, and this information is stored in a data structure. On most OSes, executable files contain headers from which this information can be easily read. In the read and write dispatch routines, the network filesystem **4304** checks if the request is for a remote executable **4307**, and if so, the offset and length of the code section **4306** of this executable **4307** is read from the data structure in which it was previously stored. Then the offset and length of the request are checked to see if they intersect the code section **4306** of this executable **4307**. If so, the request can be denied.

[0780] Anti-Piracy Embodiment #4

[0781] Filtering of file accesses based on the surmised purpose of the file access, as determined by examining the program stack or flags associated with the request.

[0782] Referring again to **FIG. 44**, the approach of the fourth embodiment is that identical requests from the same process for a remotely served file can be distinguished based on the reason the request was issued. For example, on a computer with a virtual memory subsystem **4404**, the VMS's own code will be invoked to page-in code for a process that attempts to execute code in pages that are not currently present. To do this, the VMS **4404** must issue a read request to the filesystem **4405** that handles the process's **4402** executable file **4408**. Since this request is not for any ulterior purpose, such as piracy, and is necessary for the application to execute, the request should be granted. If the filesystem **4405** gets the originating process ID for such requests, the process whose code is being paged in will be known. However, this same process ID will also be returned for requests that originate as a result of an attempt by the process itself to read its own code (perhaps for the purpose of piracy). Many applications have loopholes that allow the user to execute a macro, for example, that reads and writes arbitrary files. If the filesystem **4405** simply filters requests based on process IDs, it will mistakenly allow users to pirate remotely served applications, as long as they can send the necessary reads and writes from within the remote application itself.

[0783] However, even if the process IDs are the same for two apparently identical requests, there are ways the filesystem **4405** can distinguish them. There are two known ways to do this in a manner relevant to combating anti-piracy. The way to implement the first method is to have the filesystem **4405**, upon receiving a read request, check for the presence of the paging I/O flag that is supported by several operating systems. If this flag is not present, then the request did not come from the VMS **4404**, but from the process itself **4403**, and thus the request is risky and not apparently necessary for the application to run. If the flag is present though, the request almost certainly originated from the VMS **4404** for the purpose of reading in code to allow the process to execute. The request should be allowed.

[0784] Another way to make this same determination is to have the filesystem **4405** examine the program stack upon receiving a read request. In several operating systems, a process will attempt to execute code that resides in a virtual page regardless of whether the page is present or not. If the page is not present, a page fault occurs, and a structure is placed onto the stack that holds information about the processor's current state. Then the VMS **4404** gets control. The VMS **4404** then calls the read routine of the filesystem **4405** that handles the process's executable file to fetch this code into memory. The filesystem **4405** now reads backwards up the stack up to a certain point, searching for the presence of the structure that is placed on the stack as a result of a page fault. If such a structure is found, the execution pointer register stored in the structure is examined. If the pointer is a memory address within the boundary of the virtual memory page that is being paged in, then the filesystem **4405** knows the read request is legitimate.

[0785] Anti-Piracy Embodiment #5

[0786] Filtering of file accesses based on the surmised purpose of the file access, as determined by examining a history of previous file accesses by the same process.

[0787] Referring again to **FIG. 45**, if one looks at the series of file requests that are typically made as a result of attempting to copy an executable file, as opposed to those made in the course of executing that file, one can see certain patterns. The copy pattern is usually a sequence of sequentially ordered read requests, while the execution pattern tends to jump around a lot (as the result of code branches into non-present pages). A filesystem can be enhanced to keep around a history of requests made by specific processes on remotely served files. Then, for every subsequent request to such a file, the history for the originating process can be examined to check for certain patterns. If a file-copy pattern is seen, then the pirate may be attempting to steal the file, and the request should be denied. If an execution type pattern is seen, then the user is simply trying to run the application, and the request should be granted.

[0788] To implement this, a filesystem **4507** will tell the operating system, via an operating system call, upon initialization, to call it back whenever a new process is created. When it is called back, the filesystem **4507** will create a new data structure for the process that will store file access histories **4505**, **4506**. Then, in its read-file dispatch routines, the filesystem **4507** will determine the process ID of the originating process, and examine the process's access history **4505**, **4506**. It will only examine entries in that history **4505**, **4506** that refer to the file currently being requested. It will then run a heuristic algorithm that tries to determine if the pattern of accesses more closely resembles an attempted file copy than code execution. An effective algorithm is to simply see if the past *n* read requests to this file have been sequential, where *n* is some constant. If so, then the request is denied. If not, then the request is granted. In either case, an entry is made to the filesystem's process access history **4505**, **4506** that records the file name, offset, and length of the request made by that process to this file.

Conclusion

[0789] Although the present invention has been described using particular illustrative embodiments, it will be understood that many variations in construction, arrangement and use are possible within the scope of this invention. Other embodiments may use different network protocols, different programming techniques, or different heuristics, in each component block of the invention. Specific examples of variations include:

[0790] The proxy used in Proxy Caching could be anywhere in the Internet along the network path between a Client and the Server; and

[0791] Concurrent Requesting and Smart Requesting can be implemented in hardware instead of software.

[0792] A number of insubstantial variations are possible in the implementation of anti-piracy features of the invention. For example, instead of modifying the filesystem proper to provide anti-piracy features, a network proxy component can be placed on the client computer to filter network requests made by a conventional local network filesystem. These requests generally correspond to requests for remote

files made to the filesystem by a local process, and the type of filtering taught by the present invention can be performed on these requests. A filesystem filter component can also be written to implement these methods, instead of modifying the filesystem itself.

[0793] Although the invention is described herein with reference to the preferred embodiment, one skilled in the art will readily appreciate that other applications may be substituted for those set forth herein without departing from the spirit and scope of the present invention. Accordingly, the invention should only be limited by the Claims included below.

1. A process for converting a conventionally coded computer application program into a data set suitable for streamed delivery across a network from a server and concurrent execution on a client in a computer environment, comprising the steps of:

providing installation monitoring means for monitoring the installation process of said conventionally coded application program on a local computer system;

wherein said installation monitoring means monitors the modifications that said installation process makes to the system registry of said local computer system and records the system modification data;

wherein said installation monitoring means monitors and records any file modifications made by said installation process;

sorting said system modification data and said file modification data and removing duplicate entries;

parameterizing all of said local computer system's specific registry keys, value names, and values in said system modification data and said file modification data; and

providing data set creation means for processing said parameterized system modification data and said parameterized file modification data to create a data set suitable for streaming over said network.

2. The process of claim 1, wherein said data set creation means creates a runtime data set, said runtime data set consists of all regular application files and directories containing information about said regular application files.

3. The process of claim 2, wherein said data set creation means creates an initialization data set that is the first set of data streamed from said server to said client, said initialization data set prepares said client for streaming of said runtime data set.

4. The process of claim 2, wherein said directories contain lists of file names, file numbers, and the metadata associated with the files in a particular directory.

5. The process of claim 1, wherein said data set creation means creates a versioning table that contains a list of root file numbers and version numbers for tracking application patches and upgrades, and wherein each entry in said versioning table corresponds to one patch level of an application with a corresponding new root directory.

6. The process of claim 5, wherein said versioning table is sent to said client by said server, said client compares said versioning table with said client's root file number for the particular application program to find the necessary files required for a software upgrade or patch.

7. The process of claim 1, further comprising the step of:

providing a user interface that allows an operator to examine all changes made to said local computer system during said installation process and to edit said system modification data and said file modification data.

8. The process of claim 1, wherein said installation monitoring means monitors said application program as it runs and is being configured for a particular working environment on said local computer system and records common configurations of said application program thereby allowing said common configurations to be automatically duplicated on other client machines.

9. The process of claim 1, further comprising the step of:

program profiling means for capturing the sequence of file blocks being accessed during normal execution of said application program.

10. The process of claim 9, wherein said sequence of file blocks is used to pre-cache frequently used blocks on said client before said application program is first used by a user.

11. The process of claim 9, wherein said sequence of file blocks is used to optimize large directories of files on said client for faster file accesses.

12. The process of claim 9, wherein said sequence of file blocks is tied to specific user input and wherein said client pre-fetches file blocks based on user input to said application program.

13. The process of claim 1, wherein said installation monitoring means records the state of said local computer system before said installation process begins to give a more accurate picture of any modifications that are observed by said installation monitoring means.

14. An apparatus for converting a conventionally coded computer application program into a data set suitable for streamed delivery across a network from a server and concurrent execution on a client in a computer environment, comprising:

installation monitoring means for monitoring the installation process of said conventionally coded application program on a local computer system;

wherein said installation monitoring means monitors the modifications that said installation process makes to the system registry of said local computer system and records the system modification data;

wherein said installation monitoring means monitors and records any file modifications made by said installation process;

a module for sorting said system modification data and said file modification data and removing duplicate entries;

a module for parameterizing all of said local computer system's specific registry keys, value names, and values in said system modification data and said file modification data; and

data set creation means for processing said parameterized system modification data and said parameterized file modification data to create a data set suitable for streaming over said network.

15. The apparatus of claim 14, wherein said data set creation means creates a runtime data set, said runtime data set consists of all regular application files and directories containing information about said regular application files.

16. The apparatus of claim 15, wherein said data set creation means creates an initialization data set that is the first set of data streamed from said server to said client, said initialization data set prepares said client for streaming of said runtime data set.

17. The apparatus of claim 15, wherein said directories contain lists of file names, file numbers, and the metadata associated with the files in a particular directory.

18. The apparatus of claim 14, wherein said data set creation means creates a versioning table that contains a list of root file numbers and version numbers for tracking application patches and upgrades, and wherein each entry in said versioning table corresponds to one patch level of an application with a corresponding new root directory.

19. The apparatus of claim 18, wherein said versioning table is sent to said client by said server, said client compares said versioning table with said client's root file number for the particular application program to find the necessary files required for a software upgrade or patch.

20. The apparatus of claim 14, further comprising:

a user interface that allows an operator to examine all changes made to said local computer system during said installation process and to edit said system modification data and said file modification data.

21. The apparatus of claim 14, wherein said installation monitoring means monitors said application program as it runs and is being configured for a particular working environment on said local computer system and records common configurations of said application program thereby allowing said common configurations to be automatically duplicated on other client machines.

22. The apparatus of claim 14, further comprising:

program profiling means for capturing the sequence of file blocks being accessed during normal execution of said application program.

23. The apparatus of claim 22, wherein said sequence of file blocks is used to pre-cache frequently used blocks on said client before said application program is first used by a user.

24. The apparatus of claim 22, wherein said sequence of file blocks is used to optimize large directories of files on said client for faster file accesses.

25. The apparatus of claim 22, wherein said sequence of file blocks is tied to specific user input and wherein said client pre-fetches file blocks based on user input to said application program.

26. The apparatus of claim 14, wherein said installation monitoring means records the state of said local computer system before said installation process begins to give a more accurate picture of any modifications that are observed by said installation monitoring means.

27. A program storage medium readable by a computer, tangibly embodying a program of instructions executable by the computer to perform method steps for converting a conventionally coded computer application program into a data set suitable for streamed delivery across a network from a server and concurrent execution on a client in a computer environment, comprising the steps of:

providing installation monitoring means for monitoring the installation process of said conventionally coded application program on a local computer system;

wherein said installation monitoring means monitors the modifications that said installation process makes to the system registry of said local computer system and records the system modification data;

wherein said installation monitoring means monitors and records any file modifications made by said installation process;

sorting said system modification data and said file modification data and removing duplicate entries;

parameterizing all of said local computer system's specific registry keys, value names, and values in said system modification data and said file modification data; and

providing data set creation means for processing said parameterized system modification data and said parameterized file modification data to create a data set suitable for streaming over said network.

28. The method of claim 27, wherein said data set creation means creates a runtime data set, said runtime data set consists of all regular application files and directories containing information about said regular application files.

29. The method of claim 28, wherein said data set creation means creates an initialization data set that is the first set of data streamed from said server to said client, said initialization data set prepares said client for streaming of said runtime data set.

30. The method of claim 28, wherein said directories contain lists of file names, file numbers, and the metadata associated with the files in a particular directory.

31. The method of claim 27, wherein said data set creation means creates a versioning table that contains a list of root file numbers and version numbers for tracking application patches and upgrades, and wherein each entry in said versioning table corresponds to one patch level of an application with a corresponding new root directory.

32. The method of claim 31, wherein said versioning table is sent to said client by said server, said client compares said versioning table with said client's root file number for the particular application program to find the necessary files required for a software upgrade or patch.

33. The method of claim 27, further comprising the step of:

providing a user interface that allows an operator to examine all changes made to said local computer system during said installation process and to edit said system modification data and said file modification data.

34. The method of claim 27, wherein said installation monitoring means monitors said application program as it runs and is being configured for a particular working environment on said local computer system and records common configurations of said application program thereby allowing said common configurations to be automatically duplicated on other client machines.

35. The method of claim 27, further comprising the step of:

program profiling means for capturing the sequence of file blocks being accessed during normal execution of said application program.

36. The method of claim 35, wherein said sequence of file blocks is used to pre-cache frequently used blocks on said client before said application program is first used by a user.

37. The method of claim 35, wherein said sequence of file blocks is used to optimize large directories of files on said client for faster file accesses.

38. The method of claim 35, wherein said sequence of file blocks is tied to specific user input and wherein said client pre-fetches file blocks based on user input to said application program.

39. The method of claim 27, wherein said installation monitoring means records the state of said local computer system before said installation process begins to give a more accurate picture of any modifications that are observed by said installation monitoring means.

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